

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HOUSE BILL 2651

AN ACT

AMENDING SECTIONS 16-954, 16-956, 41-133 AND 41-2421, ARIZONA REVISED STATUTES; RELATING TO THE CITIZENS CLEAN ELECTIONS ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Subject to the requirements of article IV, part 1,
3 section 1, Constitution of Arizona, section 16-954, Arizona Revised Statutes,
4 is amended to read:

5 16-954. Clean elections tax deduction: disposition of excess
6 monies

7 A. A TAXPAYER WHO FILES ON A STATE INCOME TAX RETURN FORM MAY
8 DESIGNATE A FIVE-DOLLAR VOLUNTARY CONTRIBUTION PER TAXPAYER TO THE FUND BY
9 MARKING AN OPTIONAL CHECK-OFF BOX ON THE FORM. FIVE DOLLARS FROM THE AMOUNT
10 OF TAXES PAID SHALL BE TRANSFERRED BY THE DEPARTMENT OF REVENUE TO THE
11 FUND. THE DEPARTMENT OF REVENUE SHALL PROVIDE CHECK-OFF BOXES, IDENTIFIED AS
12 THE CLEAN ELECTIONS FUND TAX DEDUCTION, ON INCOME TAX RETURN FORMS, FOR
13 DESIGNATIONS PURSUANT TO THIS SUBSECTION.

14 B. ANY TAXPAYER MAY MAKE A VOLUNTARY DONATION TO THE FUND BY
15 DESIGNATING THE FUND ON AN INCOME TAX RETURN FORM FILED BY THE INDIVIDUAL OR
16 BUSINESS ENTITY OR BY MAKING A PAYMENT DIRECTLY TO THE FUND. ANY TAXPAYER
17 MAKING A DONATION PURSUANT TO THIS SUBSECTION SHALL RECEIVE A TAX DEDUCTION
18 NOT TO EXCEED TWENTY PER CENT OF THE TAX AMOUNT ON THE RETURN OR FIVE HUNDRED
19 DOLLARS PER TAXPAYER, WHICHEVER IS HIGHER. DONATIONS MADE PURSUANT TO THIS
20 SECTION CANNOT BE DESIGNATED AS FOR THE BENEFIT OF A PARTICULAR CANDIDATE,
21 POLITICAL PARTY OR ELECTION CONTEST. THE DEPARTMENT OF REVENUE SHALL
22 TRANSFER TO THE FUND ALL DONATIONS MADE PURSUANT TO THIS SUBSECTION. THE
23 DEPARTMENT OF REVENUE SHALL PROVIDE A SPACE, IDENTIFIED AS THE CLEAN
24 ELECTIONS FUND VOLUNTARY DONATION, ON INCOME TAX RETURN FORMS, FOR DONATIONS
25 PURSUANT TO THIS SUBSECTION.

26 ~~A. C. Beginning January 1, 1999,~~ An additional surcharge of ten per
27 cent shall be imposed on all civil and criminal fines and penalties collected
28 pursuant to section 12-116.01 and shall be deposited into the fund.

29 ~~B. D.~~ At least once per year, the commission shall project the amount
30 of monies that the fund will collect over the next four years and the time
31 such monies shall become available. Whenever the commission determines that
32 the fund contains more monies than the commission determines that it requires
33 to meet current debts plus expected expenses, under the assumption that
34 expected expenses will be at the expenditure limit in section 16-949,
35 subsection A, and taking into account the projections of collections, the
36 commission shall designate such monies as excess monies and so notify the
37 state treasurer, who shall thereupon transfer the excess monies to the
38 general fund. THE COMMISSION SHALL SEPARATELY ACCOUNT FOR MONIES RECEIVED IN
39 DONATIONS PURSUANT TO SUBSECTION B OF THIS SECTION AND SHALL NOT INCLUDE
40 THESE MONIES IN ANY CALCULATION OF OR TRANSFER OF EXCESS MONIES TO THE
41 GENERAL FUND. DISBURSEMENT OF MONIES RECEIVED IN DONATIONS ARE EXEMPT FROM
42 THE EXPENDITURE LIMITATIONS PRESCRIBED IN SECTION 16-949.

43 ~~C. E.~~ At least once per year, the commission shall project the amount
44 of clean elections funding for which all candidates will have qualified
45 pursuant to this article for the following calendar year. By the end of each

1 year, the commission shall announce whether the amount that the commission
2 plans to spend the following year pursuant to section 16-949, subsection A
3 exceeds the projected amount of clean elections funding. If the commission
4 determines that the fund contains insufficient monies or the spending cap
5 would be exceeded were all candidates' accounts to be fully funded, the
6 commission may include in the announcement specifications for decreases in
7 the following parameters, based on the commission's projections of
8 collections and expenses for the fund, including that the fund will provide
9 monies under section 16-951 as a fraction of the amounts there specified.

10 ~~D.~~ F. If the commission cannot provide participating candidates with
11 all monies specified under sections 16-951 and 16-952, as decreased by any
12 announcement pursuant to subsection ~~C~~ E of this section, the commission
13 shall allocate any reductions in payments proportionately among candidates
14 entitled to monies and shall declare an emergency. ~~Upon~~ ON declaration of an
15 emergency, a participating candidate may accept private contributions to
16 bring the total monies received by the candidate from the fund and from such
17 private contributions up to the adjusted spending limits, as decreased by any
18 announcement made pursuant to subsection ~~C~~ E of this section.

19 G. AT THE DISCRETION OF THE COMMISSION, MONIES RECEIVED PURSUANT TO
20 SUBSECTIONS A AND B OF THIS SECTION MAY BE TRANSFERRED FOR DEPOSIT TO AN
21 ELECTION EQUIPMENT REFRESHMENT ACCOUNT IN THE CLEAN ELECTIONS FUND. MONIES
22 IN THE ELECTION EQUIPMENT REFRESHMENT ACCOUNT MAY BE USED FOR UPDATING AND
23 REPLACING ELECTION EQUIPMENT USED FOR COUNTY ELECTIONS IN THIS STATE AND MAY
24 BE DISBURSED FOR THOSE PURPOSES ON EVIDENCE OF COUNTY MATCHING MONIES, WITH A
25 COUNTY PROVIDING THREE DOLLARS FOR EVERY ONE DOLLAR FROM THE ACCOUNT. MONIES
26 DISBURSED PURSUANT TO THIS SUBSECTION ARE EXEMPT FROM THE EXPENDITURE
27 LIMITATIONS PRESCRIBED IN SECTION 16-949.

28 Sec. 2. Subject to the requirements of article IV, part 1, section 1,
29 Constitution of Arizona, section 16-956, Arizona Revised Statutes, is amended
30 to read:

31 16-956. Voter education and enforcement duties

32 A. The commission shall:

33 1. Develop a procedure for publishing a document or section of a
34 document having a space of predefined size for a message chosen by each
35 candidate. For the document that is delivered before the primary election,
36 the document shall contain the names of every candidate for every statewide
37 and legislative district office in that primary election without regard to
38 whether the candidate is a participating candidate or a nonparticipating
39 candidate. For the document that is delivered before the general election,
40 the document shall contain the names of every candidate for every statewide
41 and legislative district office in that general election without regard to
42 whether the candidate is a participating candidate or a nonparticipating
43 candidate. The commission shall deliver one copy of each document to every
44 household that contains a registered voter. For the document that is
45 delivered before the primary election, the delivery may be made over a period

1 of days but shall be sent in time to be delivered to households before the
2 earliest date for receipt by registered voters of any requested early ballots
3 for the primary election. The commission may deliver the second document
4 over a period of days but shall send the second document in order to be
5 delivered to households before the earliest date for receipt by registered
6 voters of any requested early ballots for the general election. The primary
7 election and general election documents published by the commission shall
8 comply with all of the following:

9 (a) For any candidate who does not submit a message pursuant to this
10 paragraph, the document shall include with the candidate's listing the words
11 "no statement submitted".

12 (b) The document shall have printed on its cover the words "citizens
13 clean elections commission voter education guide" and the words "primary
14 election" or "general election" and the applicable year. The document shall
15 also contain at or near the bottom of the document cover in type that is no
16 larger than one-half the size of the type used for "citizens clean elections
17 commission voter education guide" the words "paid for by the citizens clean
18 elections fund".

19 (c) In order to prevent voter confusion, the document shall be easily
20 distinguishable from the publicity pamphlet that is required to be produced
21 by the secretary of state pursuant to section 19-123.

22 2. Sponsor debates among candidates, in such manner as determined by
23 the commission. The commission shall require participating candidates to
24 attend and participate in debates and may specify by rule penalties for
25 nonparticipation. The commission shall invite and permit nonparticipating
26 candidates to participate in debates.

27 3. Prescribe forms for reports, statements, notices and other
28 documents required by this article. The commission shall not require a
29 candidate to use a reporting system other than the reporting system jointly
30 approved by the commission and the office of the secretary of state.

31 4. Prepare and publish instructions setting forth methods of
32 bookkeeping and preservation of records to facilitate compliance with this
33 article and explaining the duties of persons and committees under this
34 article.

35 5. Produce a yearly report describing the commission's activities and
36 any recommendations for changes of law, administration or funding amounts and
37 accounting for monies in the fund.

38 6. Adopt rules to implement the reporting requirements of section
39 16-958, subsections D and E.

40 7. Enforce this article, ensure that money from the fund is placed in
41 candidate campaign accounts or otherwise spent as specified in this article
42 and not otherwise, monitor reports filed pursuant to this chapter and
43 financial records of candidates as needed and ensure that money required by
44 this article to be paid to the fund is deposited in the fund. The commission
45 shall not take action on any external complaint that is filed more than

1 ninety days after the postelection report is filed or ninety days after the
2 completion of the canvass of the election to which the complaint relates,
3 whichever is later.

4 B. The commission may subpoena witnesses, compel their attendance and
5 testimony, administer oaths and affirmations, take evidence and require by
6 subpoena the production of any books, papers, records or other items material
7 to the performance of the commission's duties or the exercise of its powers.

8 C. The commission may adopt rules to carry out the purposes of this
9 article and to govern procedures of the commission. Commission rule making
10 is exempt from title 41, chapter 6, article 3. The commission shall propose
11 and adopt rules in public meetings, with at least sixty days allowed for
12 interested parties to comment after the rules are proposed. The commission
13 shall also file a notice of exempt rule making and the proposed rule in the
14 format prescribed in section 41-1022 with the secretary of state's office for
15 publication in the Arizona administrative register. After consideration of
16 the comments received in the sixty day comment period, the commission may
17 adopt the rule in an open meeting. Any rules given final approval in an open
18 meeting shall be filed in the format prescribed in section 41-1022 with the
19 secretary of state's office for publication in the Arizona administrative
20 register. Any rules adopted by the commission shall only be applied
21 prospectively from the date the rule was adopted.

22 D. Rules adopted by the commission are not effective until January 1
23 in the year following the adoption of the rule, except that rules adopted by
24 unanimous vote of the commission may be made immediately effective and
25 enforceable.

26 E. If, in the view of the commission, the action of a particular
27 candidate or committee requires immediate change to a commission rule, a
28 unanimous vote of the commission is required. Any rule change made pursuant
29 to this subsection that is enacted with less than a unanimous vote takes
30 effect for the next election cycle.

31 F. AS A PART OF THE COMMISSION'S VOTER EDUCATION FUNCTIONS, THE
32 COMMISSION MAY EXPEND VOTER EDUCATION MONIES TO:

33 1. PROVIDE FOR POSTING ON THE COMMISSION'S WEBSITE CANDIDATE
34 STATEMENTS FOR FEDERAL, STATE AND COUNTY CANDIDATES. CANDIDATE STATEMENTS
35 MUST BE LIMITED TO TWO HUNDRED FIFTY WORDS AND MAY INCLUDE A PHOTOGRAPH OF
36 THE CANDIDATE.

37 2. ENGAGE IN VOTER EDUCATION REGARDING JUDICIAL RETENTION ELECTIONS.

38 3. ENGAGE IN VOTER EDUCATION REGARDING STATEWIDE BALLOT MEASURES,
39 INCLUDING DEVELOPING PILOT PROGRAMS FOR THAT VOTER EDUCATION.

40 4. BEGINNING JANUARY 1, 2015, ANNUALLY FUND OFFICEHOLDER EXPENSE
41 ACCOUNTS ESTABLISHED PURSUANT TO SECTION 41-133. FOR PAYMENTS BEGINNING IN
42 JANUARY 2016 AND LATER, IF THE COMMISSION DETERMINES BY DECEMBER THAT MONIES
43 AVAILABLE FOR OFFICEHOLDER EXPENSE ACCOUNT PURPOSES IN THE FOLLOWING YEAR ARE
44 LESS THAN FIVE MILLION DOLLARS, THE COMMISSION SHALL REDUCE THE OFFICEHOLDER
45 ACCOUNT PAYMENTS ON A PRO RATA BASIS, BASED ON THE PERCENTAGE REDUCTION IN

1 THE AMOUNT OF MONIES AVAILABLE. THE OFFICEHOLDER EXPENSE ACCOUNT ANNUAL
2 AMOUNTS ARE AS FOLLOWS, AND SHALL BE ADJUSTED BY THE SECRETARY OF STATE
3 BIENNIALLY AS PRESCRIBED IN SECTION 16-905:

4 (a) FOR GOVERNOR, FORTY-NINE THOUSAND ONE HUNDRED EIGHTY DOLLARS.

5 (b) FOR SECRETARY OF STATE AND ATTORNEY GENERAL, TWENTY-FIVE THOUSAND
6 EIGHT HUNDRED FORTY DOLLARS.

7 (c) FOR ALL OTHER STATEWIDE OFFICEHOLDERS, TWELVE THOUSAND NINE
8 HUNDRED TWENTY DOLLARS.

9 (d) FOR LEGISLATORS, FOUR THOUSAND NINE HUNDRED DOLLARS.

10 ~~F.~~ G. Based on the results of the elections in any quadrennial
11 election after 2002, and within six months after such election, the
12 commission may adopt rules changing the number of qualifying contributions
13 required for any office from those listed in section 16-950, subsection D, by
14 no more than twenty per cent of the number applicable for the preceding
15 election.

16 Sec. 3. Section 41-133, Arizona Revised Statutes, is amended to read:

17 ~~41-133.~~ Officeholder expenses; account; reporting; limitations;
18 civil penalty; definition

19 A. Any person who holds elected statewide public office or a
20 legislative office in this state, whether by election or appointment, may
21 receive or spend monies to defray the costs of performing officeholder
22 duties. THE OFFICEHOLDER MAY CHOOSE TO RECEIVE OFFICEHOLDER EXPENSE MONIES
23 FROM THE CITIZENS CLEAN ELECTIONS COMMISSION PURSUANT TO SUBSECTION B OF THIS
24 SECTION OR MAY CHOOSE TO RECEIVE OFFICEHOLDER EXPENSE MONIES FROM INDIVIDUAL
25 CONTRIBUTORS AS PRESCRIBED BY THIS SUBSECTION, BUT NOT BOTH. FOR AN
26 OFFICEHOLDER WHO CHOOSES TO RECEIVE INDIVIDUAL CONTRIBUTIONS, MONIES MAY BE
27 RECEIVED as follows:

28 1. An officeholder may receive contributions pursuant to this section
29 only from individuals, and the maximum amount that may be received from an
30 individual during an election cycle is one hundred fifty dollars.

31 2. The total amount that an officeholder may receive or spend pursuant
32 to this section during an election cycle is ninety-eight thousand three
33 hundred sixty dollars for the governor, fifty-one thousand six hundred eighty
34 dollars for the secretary of state and the attorney general, twenty-five
35 thousand eight hundred forty dollars for all other statewide officeholders
36 and nine thousand eight hundred dollars for a legislator, which may include
37 personal monies as prescribed by paragraph 3 of this subsection. The
38 secretary of state shall adjust this amount biennially as prescribed in
39 section 16-905, subsection H.

40 3. An officeholder may contribute up to thirty per cent of the limits
41 as prescribed by paragraph 2 of this subsection of the officeholder's
42 personal monies to the officeholder's expense account.

43 B. FOR OFFICEHOLDERS WHO CHOOSE TO RECEIVE CITIZENS CLEAN ELECTIONS
44 FUND MONIES FOR OFFICEHOLDER EXPENSE ACCOUNTS, THE CITIZENS CLEAN ELECTIONS
45 COMMISSION SHALL PAY THESE MONIES IN AMOUNTS AS PRESCRIBED IN SECTION 16-956.

1 THE CITIZENS CLEAN ELECTIONS COMMISSION SHALL PRESCRIBE FORMS AND PROCEDURES
2 TO BE USED TO ADMINISTER MONIES RECEIVED FOR THESE PURPOSES.

3 ~~B.~~ C. For an officeholder's future campaign, monies received do not
4 constitute a contribution as defined in section 16-901 if the monies are
5 received, expended and reported as prescribed in this section.

6 ~~C.~~ D. An officeholder shall establish a separate account for
7 officeholder expenses, which shall be separate from any candidate campaign
8 account. The officeholder shall file a statement of organization for the
9 account designated as an officeholder expense account. Monies raised or
10 spent for officeholder expenses shall be reported under campaign finance
11 reporting requirements pursuant to title 16, chapter 6, article 1.

12 ~~D.~~ E. An officeholder shall not use monies in the officeholder
13 account for campaign purposes. Permissible uses of monies in an officeholder
14 account include the following:

- 15 1. Office equipment and supplies.
- 16 2. Travel related to the officeholder's duties.
- 17 3. Meeting or communicating with constituents.
- 18 4. Expenses for informational and educational purposes, including
19 subscriptions to newspapers, magazines or other periodicals or websites or
20 other informational services, membership or participation in community,
21 professional or fraternal organizations and participation in conferences and
22 seminars.

23 ~~E.~~ F. An officeholder shall not receive or spend monies from the
24 officeholder account during the period beginning ~~April 30 in an election year~~
25 NINETY DAYS BEFORE THE PRIMARY ELECTION, shall complete the purchase or
26 otherwise use the item before ~~April 30 in an election year~~ NINETY DAYS BEFORE
27 THE PRIMARY ELECTION and shall not spend those monies until after the day of
28 the general election.

29 G. FOR OFFICEHOLDERS WHO RECEIVED INDIVIDUAL CONTRIBUTIONS FOR
30 OFFICEHOLDER EXPENSES, any monies remaining in the officeholder expense
31 account beginning ~~April 30 in an election year~~ NINETY DAYS BEFORE THE PRIMARY
32 ELECTION may not be used except as follows:

- 33 1. Paid to the state general fund.
- 34 2. For a person who continues to hold office as prescribed in this
35 section, carried forward to an officeholder expense account for another
36 office or term of office, subject to the limitations prescribed by this
37 section.

38 H. FOR OFFICEHOLDERS WHO RECEIVED MONIES FROM THE CITIZENS CLEAN
39 ELECTIONS FUND FOR OFFICEHOLDER EXPENSES, ANY MONIES REMAINING IN THE
40 OFFICEHOLDER EXPENSE ACCOUNT BEGINNING NINETY DAYS BEFORE THE PRIMARY
41 ELECTION MAY NOT BE USED AND SHALL BE RETURNED TO THE CITIZENS CLEAN
42 ELECTIONS FUND NOT LATER THAN SIXTY DAYS BEFORE THE PRIMARY ELECTION DAY.
43 FOR GOOD CAUSE SHOWN, THE COMMISSION MAY GRANT AN EXTENSION OF THE DEADLINE
44 TO RETURN THOSE MONIES TO THE FUND.

1 for the payment of filing fees, including clerk fees, diversion fees, adult
2 and juvenile probation fees, juvenile monetary assessments, fines, penalties,
3 surcharges, sanctions and forfeitures, shall be transmitted to the county
4 treasurer for allocation pursuant to subsections E, F, G and H of this
5 section. This subsection does not apply to monies collected by the courts
6 pursuant to section 16-954, ~~subsection A~~ or for child support, restitution or
7 exonerated bonds.

8 D. The supreme court shall adopt guidelines regarding the collection
9 of revenues pursuant to subsections A and C of this section.

10 E. The county treasurer shall allocate the monies deposited pursuant
11 to subsection C of this section according to the following formula:

12 1. 21.61 per cent for the purposes specified in section 11-539.

13 2. 20.53 per cent for the purposes specified in section 11-588.

14 3. 57.37 per cent to the local courts assistance fund established by
15 section 12-102.03.

16 4. 0.49 per cent to the state treasurer for transmittal to the
17 department of law for the processing of criminal cases.

18 F. The board of supervisors in each county shall separately account
19 for all monies received pursuant to subsections C and E of this section and
20 expenditures of these monies may be made only after the requirements of
21 subsections G and H of this section have been met.

22 G. By December 1 of each year each county board of supervisors shall
23 certify if the total revenues received by the justice courts and the superior
24 court, including the clerk of the superior court, exceed the amount received
25 in fiscal year 1997-1998. If the board so certifies, then the board shall
26 distribute the lesser of either:

27 1. The total amount deposited pursuant to subsection C of this
28 section.

29 2. The amount collected and deposited pursuant to subsection C of this
30 section that exceeds the base year collections of fiscal year 1997-1998.
31 These monies shall be distributed according to the formula specified in
32 subsection E of this section. Any monies remaining after this allocation
33 shall be transmitted as otherwise provided by law.

34 H. If a county board of supervisors determines that the total revenues
35 transmitted by the superior court, including the clerk of the superior court
36 and the justice courts in the county, do not equal the base year collections
37 transmitted in fiscal year 1997-1998 the monies specified in subsection C of
38 this section shall be transmitted by the county treasurer as otherwise
39 provided by law.

40 I. For the purposes of this section, base year collections shall be
41 those collections specified in subsection C of this section.

42 J. Monies collected pursuant to section 12-116.01, subsection B shall
43 be allocated as follows:

44 1. 15.44 per cent to the state aid to county attorneys fund
45 established by section 11-539.

1 2. 14.66 per cent to the state aid to indigent defense fund
2 established by section 11-588.

3 3. 40.97 per cent to the state aid to the courts fund established by
4 section 12-102.02.

5 4. 0.35 per cent to the department of law for the processing of
6 criminal cases.

7 5. 14.29 per cent to the Arizona criminal justice commission for
8 distribution to state, county and municipal law enforcement full service
9 forensic crime laboratories pursuant to rules adopted by the Arizona criminal
10 justice commission.

11 6. 14.29 per cent to the supreme court for allocation to the municipal
12 courts pursuant to subsection K of this section.

13 K. The supreme court shall administer and allocate the monies received
14 pursuant to subsection J, paragraph 6 of this section to the municipal courts
15 based on the total amount of surcharges transmitted pursuant to section
16 12-116.01 by that jurisdiction's city treasurer to the state treasurer for
17 the prior fiscal year divided by the total amount of surcharges transmitted
18 to the state treasurer pursuant to section 12-116.01 by all city treasurers
19 statewide for the prior fiscal year. The municipal court shall use the
20 monies received to improve, maintain and enhance the ability to collect and
21 manage monies assessed or received by the courts, to improve court automation
22 and to improve case processing or the administration of justice. The
23 municipal court shall submit a plan to the supreme court and the supreme
24 court shall approve the plan before the municipal court begins to spend these
25 allocated monies.

26 Sec. 5. Nonseverability

27 If any portion of this act is finally adjudicated invalid, the entire
28 act is void.

29 Sec. 6. Requirements for enactment; three-fourths vote

30 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
31 sections 16-954 and 16-956, Arizona Revised Statutes, as amended by this act,
32 are effective only on the affirmative vote of at least three-fourths of the
33 members of each house of the legislature.

34 Sec. 7. Emergency

35 This act is an emergency measure that is necessary to preserve the
36 public peace, health or safety and is operative immediately as provided by
37 law.