Committee on Appropriations

House of Representatives Amendments to S.B. 1237

(Reference to Senate engrossed bill)

1. Strike everything after the enacting clause and insert:
2. "Section 1. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-941, Arizona Revised Statutes, is amended to read:
3. 16-941. Limits on spending and contributions for political campaigns
4. A. Notwithstanding any law to the contrary, a participating candidate:
5. 1. Shall not accept any contributions, other than a limited number of five-dollar qualifying contributions as specified in section 16-946 and early contributions as specified in section 16-945, except in the emergency situation specified in section 16-954, subsection F—D.
6. 2. Shall not make expenditures of more than a total of five hundred dollars of the candidate's personal monies for a candidate for the legislature or more than one thousand dollars for a candidate for statewide office.
7. 3. Shall not make expenditures in the primary election period in excess of the adjusted primary election spending limit.
8. 4. Shall not make expenditures in the general election period in excess of the adjusted general election spending limit.
9. 5. Shall comply with section 16-948 regarding campaign accounts and section 16-953 regarding returning unused monies to the citizens clean elections fund described in this article.
10. B. Notwithstanding any law to the contrary, a nonparticipating candidate shall not accept contributions in excess of an amount that is twenty per cent less than the limits specified in section 16-905, subsections A through E, as adjusted by the secretary of state pursuant to section 16-905, subsection H. Any violation of this subsection shall be subject to the civil penalties and procedures set forth in section 16-905, subsections J through M and section 16-924.
11. C. Notwithstanding any law to the contrary, a candidate, whether participating or nonparticipating:
12. 1. If specified in a written agreement signed by the candidate and one or more opposing candidates and filed with the citizens clean elections commission, shall not make any expenditure in the primary or general election period exceeding an agreed-upon amount lower than spending limits otherwise applicable by statute.
13. 2. Shall continue to be bound by all other applicable election and campaign finance statutes and rules, with the exception of those provisions in express or clear conflict with this article.
14. D. Notwithstanding any law to the contrary, any person who makes independent expenditures related to a particular office cumulatively exceeding five hundred dollars in an election cycle, with the exception of any expenditure listed in section 16-920 and any independent expenditure by an organization arising from a communication directly to the organization's
members, shareholders, employees, affiliated persons and subscribers, shall
file reports with the secretary of state in accordance with section 16-958 so
indicating, identifying the office and the candidate or group of candidates
whose election or defeat is being advocated and stating whether the person is
advocating election or advocating defeat.

Sec. 2. Subject to the requirements of article IV, part 1, section 1,
Constitution of Arizona, section 16-942, Arizona Revised Statutes, is amended
to read:

16-942. Civil penalties and forfeiture of office
A. The civil penalty for a violation of any contribution or
expenditure limit in section 16-941 by or on behalf of a participating
candidate shall be ten times the amount by which the expenditures or
contributions exceed the applicable limit.
B. In addition to any other penalties imposed by law, the civil
penalty for a violation by or on behalf of any PARTICIPATING candidate of any
reporting requirement imposed by this chapter shall be one hundred dollars
per day for candidates for the legislature and three hundred dollars per day
for candidates for statewide office. The penalty imposed by this subsection
shall be doubled if the amount not reported for a particular election cycle
exceeds ten percent of the adjusted primary or general election spending
limit. No penalty imposed pursuant to this subsection shall exceed twice the
amount of expenditures or contributions not reported. The PARTICIPATING
candidate and the PARTICIPATING candidate’s campaign account shall be jointly
and severally responsible for any penalty imposed pursuant to this
subsection.
C. Any campaign finance report filed indicating a violation of section
16-941, subsections A or B or section 16-941, subsection C, paragraph 1
involving an amount in excess of ten percent of the sum of the adjusted
primary election spending limit and the adjusted general election spending
limit for a particular PARTICIPATING candidate shall result in
disqualification of a PARTICIPATING candidate or forfeiture of office.
D. Any participating candidate adjudged to have committed a knowing
violation of section 16-941, subsection A or subsection C, paragraph 1 shall
repay from the candidate's personal monies to the fund all monies expended
from the candidate’s campaign account and shall turn over the candidate’s
campaign account to the fund.
E. All civil penalties collected pursuant to this article shall be
deposited into the fund.

Sec. 3. Subject to the requirements of article IV, part 1, section 1,
Constitution of Arizona, section 16-943, Arizona Revised Statutes, is amended
to read:

16-943. Criminal violations
A. A PARTICIPATING candidate, or any other person acting on behalf of
a PARTICIPATING candidate, who knowingly violates section 16-941 is guilty of
a class 1 misdemeanor.
B. Any person who knowingly pays any thing of value or any
compensation for a qualifying contribution as defined PRESERVED in section
16-946 is guilty of a class 1 misdemeanor.
C. Any person who knowingly provides false or incomplete information on a report filed under section 16-958 is guilty of a class 1 misdemeanor.

Sec. 4. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-956, Arizona Revised Statutes, is amended to read:

16-956. Voter education and enforcement duties
A. The commission shall:
1. Develop a procedure for publishing a document or section of a document having a space of predefined size for a message chosen by each candidate. For the document that is delivered before the primary election, the document shall contain the names of every candidate for every statewide and legislative district office in that primary election without regard to whether the candidate is a participating candidate or a nonparticipating candidate. For the document that is delivered before the general election, the document shall contain the names of every candidate for every statewide and legislative district office in that general election without regard to whether the candidate is a participating candidate or a nonparticipating candidate. The commission shall deliver one copy of each document to every household that contains a registered voter. For the document that is delivered before the primary election, the delivery may be made over a period of days but shall be sent in time to be delivered to households before the earliest date for receipt by registered voters of any requested early ballots for the primary election. The commission may deliver the second document over a period of days but shall send the second document in order to be delivered to households before the earliest date for receipt by registered voters of any requested early ballots for the general election. The primary election and general election documents published by the commission shall comply with all of the following:
   (a) For any candidate who does not submit a message pursuant to this paragraph, the document shall include with the candidate's listing the words "no statement submitted".
   (b) The document shall have printed on its cover the words "citizens clean elections commission voter education guide" and the words "primary election" or "general election" and the applicable year. The document shall also contain at or near the bottom of the document cover in type that is no larger than one-half the size of the type used for "citizens clean elections commission voter education guide" the words "paid for by the citizens clean elections fund".
   (c) In order to prevent voter confusion, the document shall be easily distinguishable from the publicity pamphlet that is required to be produced by the secretary of state pursuant to section 19-123.
2. Sponsor debates among candidates, in such manner as determined by the commission. The commission shall require participating candidates to attend and participate in debates and may specify by rule penalties for nonparticipation. The commission shall invite and permit nonparticipating candidates to participate in debates.
3. Prescribe forms for reports, statements, notices and other documents required by this article. The commission shall not require a
PARTICIPATING candidate to use a reporting system other than the reporting
system jointly approved by the commission and the office of the secretary of
state.

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

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

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

7. Enforce this article AS TO PARTICIPATING CANDIDATES, ensure that
money from the fund is placed in PARTICIPATING candidate campaign accounts or
otherwise spent as specified in this article and not otherwise, monitor
reports filed pursuant to this chapter and financial records of PARTICIPATING
candidates as needed and ensure that money required by this article to be
paid to the fund is deposited in the fund. The commission shall not take
action on any external complaint AGAINST A PARTICIPATING CANDIDATE that is
filed more than ninety days after the postelection report is filed or ninety
days after the completion of the canvass of the election to which the
complaint relates, whichever is later.

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

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

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

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

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

Sec. 5. Subject to the requirements of article IV, part 1, section 1,
Constitution of Arizona, section 16-957, Arizona Revised Statutes, is amended
to read:

16-957. Enforcement procedure

A. If the commission finds that there is reason to believe that a
person PARTICIPATING CANDIDATE OR A PERSON AFFILIATED WITH A PARTICIPATING
CANDIDATE has violated any provision of this article, the commission shall
serve on that person an order stating with reasonable particularity the
nature of the violation and requiring compliance within fourteen days.
During that period, the alleged violator may provide any explanation to the
commission, comply with the order, or enter into a public administrative
settlement with the commission.

B. Upon expiration of the fourteen days, if the commission finds
that the alleged violator remains out of compliance, the commission shall
make a public finding to that effect and issue an order assessing a civil
penalty in accordance with section 16-942, unless the commission publishes
findings of fact and conclusions of law expressing good cause for reducing or
excusing the penalty. The violator has fourteen days from the date of
issuance of the order assessing the penalty to appeal to the superior court
as provided in title 12, chapter 7, article 6.

C. Any candidate in a particular election contest who believes that
any opposing PARTICIPATING candidate has violated this article for that
election may file a complaint with the commission requesting that action be
taken pursuant to this section. If the commission fails to make a finding
under subsection A of this section within thirty days after the filing of
such a complaint, the candidate may bring a civil action in the superior
court to impose the civil penalties prescribed in this section.

Sec. 6. Subject to the requirements of article IV, part 1, section 1,
Constitution of Arizona, section 16-958, Arizona Revised Statutes, is amended
to read:

16-958. Manner of filing reports

A. Any person who has previously reached the dollar amount specified
in section 16-941, subsection D for filing an original report shall file a
supplemental report each time previously unreported independent expenditures
specified by that subsection exceeds one thousand dollars. Such reports
shall be filed at the times specified in subsection B of this section and
shall identify the dollar amount being reported, the candidate and the date,
and no other detail is required in reports made pursuant to this section.

B. Any person who must file an original report pursuant to section
16-941, subsection D or who must file a supplemental report for previously
unreported amounts pursuant to subsection A of this section shall file as
follows:

1. Before the beginning of the primary election period, the person
shall file a report on the first of each month, unless the person has not
reached the dollar amount for filing an original or supplemental report on
that date.

2. Thereafter, except as stated in paragraph 3 of this subsection, the
person shall file a report on any Tuesday by which the person has reached the
dollar amount for filing an original or supplemental report.

3. During the last two weeks before the primary election and the last
two weeks before the general election, the person shall file a report within
one business day of reaching the dollar amount for filing an original or
supplemental report.

C. A. Any filing under this article on behalf of a PARTICIPATING
candidate may be made by the candidate's campaign committee. All
PARTICIPATING candidates shall deposit any check received by and intended for
the campaign and made payable to the candidate or the candidate's campaign
committee, and all cash received by and intended for the campaign, in the
candidate's campaign account before the due date of the next report specified
in subsection B of this section. No PARTICIPATING candidate or person acting
on behalf of a PARTICIPATING candidate shall conspire with a donor to
postpone delivery of a donation to the campaign for the purpose of postponing
the reporting of the donation in any subsequent report.

D. The secretary of state shall immediately notify the commission of
the filing of each report under this section and deliver a copy of the report
to the commission, and the commission shall promptly mail or otherwise
deliver a copy of each report filed pursuant to this section to all
participating candidates opposing the candidate identified in section 16-941,
subsection D.

E. B. Any report filed pursuant to this section or section 16-916,
subsection A, paragraph 1 or subsection B shall be filed in electronic
format. The secretary of state shall distribute computer software to
political committees to accommodate such electronic filing.

E. C. During the primary election period and the general election
period, all PARTICIPATING candidates shall make available for public
inspection all bank accounts, campaign finance reports and financial records
relating to the candidate's campaign, either by immediate disclosure through
electronic means or at the candidate's campaign headquarters, in accordance
with rules adopted by the commission.

Sec. 7. Subject to the requirements of article IV, part 1, section 1,
Constitution of Arizona, section 16-959, Arizona Revised Statutes, is amended
to read:

16-959. Inflationary and other adjustments of dollar values
A. Every two years, the secretary of state shall modify the dollar
values specified in the following parts of this article, in the manner
specified by section 16-905, subsection H, to account for inflation:

1. Section 16-941, subsection A, paragraph 2 or subsection D;
2. Section 16-942, subsection B;
3. Section 16-945, subsection A, paragraphs 1 and 2.

4. Section 16-948, subsection C.

5. Section 16-955, subsection G.

6. Section 16-961, subsections G and H.

B. In addition, the secretary of state shall make a similar inflation adjustment by modifying the dollar values in section 16-949, subsection A to reflect cumulative inflation since the enactment of this article. In addition, every two years, the secretary of state shall change the dollar values in section 16-961, subsections G and H in proportion to the change in the number of Arizona resident personal income tax returns filed during the previous calendar year.

C. Based on the results of the elections in any quadrennial election after 2002, and within six months after such election, the commission may adopt rules in a public meeting reallocating funds available to all candidates between the primary and general elections by selecting a fraction for primary election spending limits that is between one-third and one-half of the spending limits for the election as a whole. For each office, the primary election spending limit shall be modified to be the sum of the primary and general spending limits times the selected fraction, and the general election spending limit shall be modified to be the same sum times one less the selected fraction.

Sec. 8. Requirements for enactment; three-fourths vote

Pursuant to article IV, part 1, section 1, Constitution of Arizona, this act is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.”

Amend title to conform

and, as so amended, it do pass

JUSTIN OLSON
Chairman