

REFERENCE TITLE: campaign finance; violations

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2667

Introduced by
Representatives Sherwood, Mendez, Senator Quezada

AN ACT

AMENDING SECTIONS 16-903, 16-905, 16-913 AND 16-924, ARIZONA REVISED
STATUTES; RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-903, Arizona Revised Statutes, is amended to
3 read:

4 16-903. Candidate's campaign committees; exploratory
5 committees; designation; candidate as agent;
6 violation; classification

7 A. Each candidate who intends to receive contributions or make
8 expenditures of more than five hundred dollars in connection with a campaign
9 for office shall designate in the format prescribed by the filing officer a
10 political committee for each election to serve as the candidate's campaign
11 committee. Subject to section 16-902, subsection D, a candidate shall only
12 designate a single candidate campaign committee that applies to both the
13 primary election and the general election for that designated office. The
14 candidate shall make the designation pursuant to this subsection by filing a
15 statement of organization before making any expenditures, accepting any
16 contributions, distributing any campaign literature or circulating any
17 petitions. Each candidate who intends to receive contributions or make
18 expenditures of five hundred dollars or less shall file a signed exemption
19 statement in the format prescribed by the filing officer that states that
20 intention before making any expenditures, accepting any contributions,
21 distributing any campaign literature or circulating petitions. If a
22 candidate who has filed a five hundred dollar exemption statement receives
23 contributions or makes expenditures of more than five hundred dollars, that
24 candidate shall file a statement of organization with the filing officer
25 within five business days after exceeding the five hundred dollar limit.

26 B. An individual who receives contributions or makes expenditures of
27 more than five hundred dollars for the purpose of determining whether the
28 individual will become a candidate for election to an office in this state
29 shall designate in the format prescribed by the filing officer a political
30 committee to serve as the individual's exploratory committee. The individual
31 shall make the designation pursuant to this subsection before making any
32 expenditures, accepting any contributions, circulating any petitions or
33 distributing any campaign literature. If an individual's exploratory
34 committee receives contributions designated for use in the general election
35 before the primary election, the committee must use an acceptable accounting
36 method to distinguish between contributions received for the primary election
37 and contributions received for the general election. Acceptable accounting
38 methods include designating separate accounts for each election or
39 establishing separate books and records for each election.

40 C. An individual may have only one exploratory committee in existence
41 at one time. A candidate may have only one campaign committee designated for
42 each election, but a candidate may have more than one campaign committee
43 simultaneously in existence.

1 D. A political committee that supports or has supported another
2 candidate or more than one candidate may not be designated as a candidate's
3 campaign committee.

4 E. Any candidate who receives a contribution or any loan for use in
5 connection with the campaign of that candidate for election or who makes a
6 disbursement in connection with that campaign shall be deemed as having
7 received the contribution or loan or as having made the disbursement as an
8 agent of the candidate's campaign committee for purposes of this article.

9 F. An elected official is not deemed to have offered himself for
10 nomination or election to an office within the meaning of section 38-296
11 solely by his designation of a candidate campaign committee.

12 G. After designating an exploratory committee, a candidate may
13 lawfully collect signatures on nomination petitions and receive
14 contributions.

15 H. A person who ~~violates this section is subject to a civil penalty~~
16 ~~imposed as prescribed in section 16-924 of up to three times the amount of~~
17 ~~money that has been received, expended or promised in violation of this~~
18 ~~section or up to three times the value in money for an equivalent of money or~~
19 ~~other things of value that have been received, expended or promised in~~
20 ~~violation of this section~~ KNOWINGLY OR INTENTIONALLY MISSTATES OR FAILS TO
21 FULLY DISCLOSE A CONTRIBUTION OR EXPENDITURE OR ANY OTHER THING REQUIRED TO
22 BE REPORTED BY THIS ARTICLE IS GUILTY OF A CLASS 1 MISDEMEANOR.

23 Sec. 2. Section 16-905, Arizona Revised Statutes, is amended to read:
24 16-905. Contribution limitations; civil penalty; complaint;
25 reductions; violation; classification

26 A. For an election other than for a statewide office, a contributor
27 shall not give and an exploratory committee, a candidate or a candidate's
28 campaign committee shall not accept contributions of more than:

29 1. For an election for a legislative office, two thousand five hundred
30 dollars from an individual.

31 2. For an election other than for a legislative office, two thousand
32 five hundred dollars from an individual.

33 3. For an election for a legislative office, two thousand five hundred
34 dollars from a single political committee, excluding a political party, not
35 certified under subsection G of this section to make contributions at the
36 higher limits prescribed by paragraph 5 of this subsection and subsection B,
37 paragraph 3 of this section.

38 4. For an election other than for a legislative office, two thousand
39 five hundred dollars from a single political committee, excluding a political
40 party, not certified under subsection G of this section to make contributions
41 at the higher limits prescribed by subsection B, paragraph 3 of this section.

42 5. Five thousand dollars from a single political committee that is
43 certified pursuant to subsection G of this section, excluding a political
44 party.

1 B. For an election for a statewide office, a contributor shall not
2 give and an exploratory committee, a candidate or a candidate's committee
3 shall not accept contributions of more than:

4 1. Two thousand five hundred dollars from an individual.

5 2. Two thousand five hundred dollars from a single political
6 committee, excluding a political party, not certified under subsection G of
7 this section to make contributions at the higher limits prescribed by
8 subsection A, paragraph 5 of this section and paragraph 3 of this subsection.

9 3. Five thousand ten dollars from a single political committee that is
10 certified pursuant to subsection G of this section, excluding a political
11 party.

12 C. A candidate may accept contributions from political committees,
13 excluding political parties, as otherwise prescribed in this section and a
14 candidate is not restricted as to the aggregate total that a candidate may
15 lawfully receive from all political committees, excluding political parties.

16 D. A nominee of a political party shall not accept contributions from
17 all political parties or political organizations combined totaling more than
18 ten thousand twenty dollars for an election for an office other than a
19 statewide office, and one hundred thousand one hundred ten dollars for an
20 election for a statewide office.

21 E. An individual may make contributions as otherwise prescribed by
22 this section, and an individual is not restricted as to the aggregate total
23 that an individual may give.

24 F. A candidate's campaign committee or an individual's exploratory
25 committee shall not make a loan and shall not transfer or contribute money to
26 any other campaign or exploratory committee that is designated pursuant to
27 this chapter or ~~2- 52~~ United States Code section ~~431~~ 30101 except as follows:

28 1. An exploratory committee may transfer monies to a subsequent
29 candidate's campaign committee of the individual designating the exploratory
30 committee, subject to the limits of subsection B of this section.

31 2. A candidate's campaign committee may transfer or contribute monies
32 to another campaign committee designated by the same candidate as follows:

33 (a) Subject to the contribution limits of this section per
34 contributor, transfer or contribute monies in the aggregate from one
35 committee to another if both committees have been designated for an election
36 in the same year including to a committee for another office or in another
37 jurisdiction.

38 (b) Without application of the contribution limits of this section,
39 transfer or contribute monies from one committee to another designated for an
40 election in a subsequent year.

41 G. Only political committees that received monies from five hundred or
42 more individuals in amounts of ten dollars or more in the two year period
43 immediately before application to the secretary of state for qualification as
44 a political committee pursuant to this section may make contributions to
45 candidates under subsection A, paragraph 5 of this section and subsection B,

1 paragraph 3 of this section. The secretary of state shall obtain information
2 necessary to make the determination that a committee meets the requirements
3 of this subsection and shall provide written certification of the fact to the
4 committee. A political committee certification is valid for four years. A
5 candidate's campaign committee shall not accept a contribution pursuant to
6 this subsection unless it is accompanied by a copy of the certification. All
7 political committees that do not meet the requirements of this subsection are
8 subject to the individual campaign contribution limits of subsection A,
9 paragraphs 1 and 2 of this section and subsection B, paragraph 1 of this
10 section.

11 H. The secretary of state biennially shall adjust to the nearest ten
12 dollars the amounts in subsections A through E of this section by the
13 percentage change in the consumer price index and publish the new amounts for
14 distribution to election officials, candidates and campaign committees. For
15 the purposes of this subsection, "consumer price index" means the consumer
16 price index for all urban consumers, United States city average, that is
17 published by the United States department of labor, bureau of labor
18 statistics.

19 I. The following specific limitations and procedures apply:

20 1. The limits of subsections A through E of this section apply to each
21 election for any office or offices that the candidate seeks.

22 2. The limits of subsections A and B of this section apply to the
23 total contributions from all separate segregated funds established, as
24 provided in section 16-920, by a corporation, labor organization, trade
25 association, cooperative or corporation without capital stock.

26 3. A contribution by an unemancipated minor child shall be treated as
27 a contribution by the child's custodial parent or parents for determining
28 compliance with subsection A, paragraphs 1 and 2, subsection B, paragraph 1
29 and subsection E of this section.

30 4. A contribution by an individual or a single political committee to
31 two or more candidates in connection with a joint fund-raising effort shall
32 be divided among the candidates in direct proportion to each candidate
33 campaign committee's share of the expenses for the fund-raising effort.

34 5. A candidate shall sign and file with the candidate's nomination
35 paper a statement that the candidate has read all applicable laws relating to
36 campaign financing and reporting.

37 6. A contribution to a candidate's exploratory or campaign committee
38 shall be applied to the primary election unless:

39 (a) The contributor has designated otherwise.

40 (b) That application would result in exceeding a contribution limit.
41 In that event, the committee may:

42 (i) Apply that portion of the contribution that exceeds the limit to
43 the general election. Any portion applied to the general election is subject
44 to the contribution limits for that election and for that contributor.

45 (ii) Refund the excess amount.

1 (c) The contribution was received after the primary election and the
2 contribution was not being used to retire primary election debt. In that
3 event, the contribution shall be applied to the general election subject to
4 the contribution limits for that election and for that contributor.

5 7. Contributions made to the candidate for the general election are
6 solely for influencing the general election. If the candidate prevailed in
7 the primary election or if the candidate filed pursuant to section 16-341,
8 unexpended or unencumbered primary election contributions may be combined
9 after the primary election with all of the general election contributions
10 that were received for use in the general election. After the general
11 election, all contributions may be combined for use in a subsequent election.

12 8. An individual or political committee shall not use economic
13 influence to induce members of an organization to make contributions to a
14 candidate, collect contributions from members of an organization for
15 transmittal to a candidate, make payments to candidates for public
16 appearances or services that are ordinarily uncompensated or use any similar
17 device to circumvent any of the limitations of this section.

18 J. ~~A person who violates~~ A KNOWING VIOLATION OF this section is A
19 CLASS 1 MISDEMEANOR. AN UNKNOWING VIOLATION OF THIS SECTION IS subject to a
20 civil penalty imposed as prescribed in section 16-924 of three times the
21 amount of money that has been received, expended or promised in violation of
22 this section or three times the value in money for an equivalent of money or
23 other things of value that have been received, expended or promised in
24 violation of this section.

25 K. Any qualified elector may file a sworn complaint with the attorney
26 general or the county attorney of the county in which a violation of this
27 section is believed to have occurred, and the attorney general or the county
28 attorney shall investigate the complaint for possible action.

29 L. If the filing officer, attorney general or county attorney fails to
30 institute an action within forty-five working days after receiving a
31 complaint under subsection K of this section, the individual filing the
32 complaint may bring a civil action in the individual's own name and at the
33 individual's own expense, with the same effect as if brought by the filing
34 officer, attorney general or county attorney. The individual shall execute a
35 bond payable to the defendant if the individual fails to prosecute the action
36 successfully. The court shall award to the prevailing party costs and
37 reasonable attorney fees.

38 M. If a provision of this section or its application to any person or
39 circumstance is held invalid, the invalidity does not affect other provisions
40 or applications of the section that can be given effect without the invalid
41 provision or application, and to this end the provisions of this section are
42 severable.

43 N. The use of a candidate's personal monies, or the use of personal
44 monies by an individual who designates an exploratory committee, is not
45 subject to the limitations of this section.

1 0. For any statewide or legislative candidate who is not participating
2 in the citizens clean elections act funding system established pursuant to
3 article 2 of this chapter:

4 1. Complaints and investigations relating to an alleged violation of
5 this article are subject only to the jurisdiction, penalties and procedures
6 established pursuant to this article and the enforcement and investigative
7 authority of the secretary of state and attorney general.

8 2. The citizens clean elections commission has no authority to accept,
9 investigate or otherwise act on any complaint involving an alleged violation
10 of this article.

11 Sec. 3. Section 16-913, Arizona Revised Statutes, is amended to read:

12 16-913. Campaign finance reports; reporting of receipts and
13 disbursements; exemptions; civil penalty; violation;
14 classification

15 A. Except as provided in subsection K of this section, each political
16 committee shall file campaign finance reports in the format prescribed by the
17 filing officer setting forth the committee's receipts and disbursements
18 according to the schedule prescribed in subsections B and C of this section.

19 B. In any calendar year during which there is a regularly scheduled
20 election at which any candidates, measures, questions or propositions appear
21 or may appear on the ballot, the political committee shall file each of the
22 following campaign finance reports:

23 1. A report covering the period beginning January 1 through May 31,
24 filed no later than June 30.

25 2. A preelection report, that shall be filed not less than four days
26 before any election and that shall be complete through the twelfth day before
27 the election.

28 3. A postelection report, that shall be filed not more than thirty
29 days after any election and that shall be complete through the twentieth day
30 after the election.

31 C. In any other calendar year, the political committee shall file a
32 report covering the period beginning twenty-one days after the date of the
33 election in the preceding calendar year through December 31 of the
34 nonelection year filed no later than January 31 of the following calendar
35 year. For a special election for which the secretary of state is the filing
36 officer, a political committee that receives contributions or makes
37 expenditures to influence that election shall file the following:

38 1. For an initiative, referendum or recall, a preelection report that
39 is due within fifteen days of filing the petition with the secretary of state
40 and **THAT IS** current through the date the petition was filed.

41 2. A preelection report that is due within fifteen days of the
42 governor's proclamation calling the special election and **THAT IS** current
43 through the date of the governor's proclamation.

44 3. A preelection report that is due as prescribed by subsection B,
45 paragraph 2 of this section.

1 4. A postelection report that is due as prescribed by subsection B,
2 paragraph 3 of this section.

3 D. In the event that a political committee receives no contributions
4 and makes no expenditures during a period in which it is required to file a
5 campaign finance report, the committee treasurer or if the treasurer is
6 unavailable the candidate, in lieu of filing a report required by subsection
7 B of this section, may sign and file a form prescribed by the secretary of
8 state indicating no activity during the specific reporting period.

9 E. In lieu of the reports prescribed in subsections B and C of this
10 section, a candidate's political committee that remains active after an
11 election due to outstanding debts may file a document no later than January
12 31 in a form prescribed by the secretary of state that states that the
13 committee does not intend to receive any contributions or make any
14 expenditures during the year. If a candidate's political committee does
15 receive a contribution or make an expenditure during that year, the committee
16 shall report as prescribed by subsection B or C of this section.

17 F. A judge who has filed a declaration of the desire to be retained in
18 office is exempt from filing any report required by this section if the
19 judge, not later than twelve days before the general election, files a
20 statement signed and sworn to by the judge certifying that the judge has
21 received no contributions, has made no expenditures and has no campaign
22 committee and that the judge does not intend to receive contributions, make
23 expenditures or have a campaign committee for the purpose of influencing the
24 result of the vote on the question of the judge's retention. With respect to
25 superior court judges, a statement filed pursuant to this subsection is
26 effective until the earlier of twelve days before the third general election
27 following the filing of this statement or the judge receives contributions,
28 makes expenditures or authorizes a campaign committee. Such a statement
29 filed by a supreme court justice or a court of appeals judge is effective
30 until the earlier of twelve days before the fourth general election following
31 the filing of this statement or the justice or judge receives contributions,
32 makes expenditures or authorizes a campaign committee.

33 G. Reports in connection with special or recall elections shall
34 conform to the filing deadlines set forth in subsections B and C of this
35 section.

36 H. Except as provided in section 16-916, subsection B and subsection K
37 of this section, a political committee shall comply with the requirements of
38 this section in each jurisdiction in this state in which the committee has
39 filed a statement of organization until the committee terminates pursuant to
40 section 16-914, and its statements, designations and reports shall be filed
41 with each officer with whom it has filed a statement of organization, as
42 appropriate.

43 I. Each report required to be filed pursuant to this section shall be
44 signed by the committee treasurer or the candidate or the designating
45 individual if the treasurer is unavailable and shall contain the

1 certification of the signer under penalty of perjury that the report is true
2 and complete.

3 J. A political committee and the candidate, in the case of a
4 candidate's campaign committee, or the designating individual, in the case of
5 an exploratory committee, who violate this section are subject to the penalty
6 prescribed in section 16-918.

7 K. A standing political committee shall file reports with the
8 secretary of state and is exempt from filing a report with any other
9 jurisdiction in which it is active. The reports shall be in an electronic
10 format as prescribed by the secretary of state or by use of the internet.
11 The secretary of state shall promptly make the reports available to the
12 public on the internet and shall make the reports available by electronic
13 means by request. The standing committee shall file the following reports:

14 1. A preelection report that is due as prescribed by subsection B,
15 paragraph 2 of this section shall be filed for each consolidated election
16 date prescribed by section 16-204.

17 2. A postelection report that is due as prescribed by subsection B,
18 paragraph 3 of this section shall be filed for each consolidated election
19 date prescribed by section 16-204.

20 3. An annual report that is due by January 31 in the year immediately
21 following the calendar year that is the subject of the report.

22 L. A PERSON WHO KNOWINGLY OR INTENTIONALLY MISSTATES OR FAILS TO FULLY
23 DISCLOSE A CONTRIBUTION OR EXPENDITURE OR ANY OTHER THING REQUIRED TO BE
24 REPORTED BY THIS ARTICLE IS GUILTY OF A CLASS 1 MISDEMEANOR.

25 Sec. 4. Section 16-924, Arizona Revised Statutes, is amended to read:
26 16-924. Civil penalties; attorney general; county, city or town
27 attorney; violation; classification

28 A. Unless another penalty is specifically prescribed in this title, if
29 the filing officer for campaign finance reports designated pursuant to
30 section 16-916, subsection A has reasonable cause to believe that a person is
31 violating any provision of this title, except for violations of chapter 6,
32 article 2, the secretary of state shall notify the attorney general for a
33 violation regarding a statewide office or the legislature, the county officer
34 in charge of elections shall notify the county attorney for that county for a
35 violation regarding a county office or the city or town clerk shall notify
36 the city or town attorney for a violation regarding a city or town office.
37 The attorney general, county attorney or city or town attorney, as
38 appropriate, may serve on the person an order requiring compliance with that
39 provision. The order shall state with reasonable particularity the nature of
40 the violation and shall require compliance within twenty days from the date
41 of issuance of the order. The alleged violator has twenty days from the date
42 of issuance of the order to request a hearing pursuant to title 41,
43 chapter 6.

1 B. If a person fails to take corrective action within the time
2 specified in the compliance order issued pursuant to subsection A **OF THIS**
3 **SECTION**, the attorney general, county attorney or city or town attorney, as
4 appropriate, shall issue an order assessing a civil penalty of not more than
5 one thousand dollars. The person alleged to have violated the compliance
6 order has thirty days from the date of issuance of the order assessing the
7 civil penalty to request a hearing pursuant to title 41, chapter 6.

8 C. Any party aggrieved by an order or decision of the attorney
9 general, county attorney or city or town attorney, as appropriate, may appeal
10 to the superior court as provided in title 12, chapter 7, article 6.

11 D. For the purposes of this section, failure to comply with a
12 compliance order issued by the attorney general, county attorney or city or
13 town attorney, as appropriate, as prescribed in subsection A **OF THIS SECTION**
14 is deemed an intentional act.

15 **E. IN ADDITION TO BEING SUBJECT TO A CIVIL PENALTY, A VIOLATION OF**
16 **THIS ARTICLE IS A CLASS 2 MISDEMEANOR UNLESS ANOTHER CLASSIFICATION IS**
17 **SPECIFICALLY PRESCRIBED IN THIS TITLE.**