

REFERENCE TITLE: campaign finance; independent expenditures; disclosure

State of Arizona
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SB 1175

Introduced by
Senators Farley, Dalessandro, Hobbs: Bradley, Contreras, Pancrazi

AN ACT

AMENDING SECTIONS 16-907, 16-912, 16-912.01 AND 16-914.02, 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 16-907, Arizona Revised Statutes, is amended to
3 read:

4 16-907. Prohibited contributions; standing political committees;
5 classification

6 A. Any person who makes a contribution in the name of another person
7 or who knowingly permits his name to be used to effect such a contribution
8 and any person who knowingly accepts a contribution made by one person in the
9 name of another person is guilty of a class 6 felony.

10 B. IT IS A VIOLATION OF SUBSECTION A OF THIS SECTION IF AN OFFICER OF
11 A CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION TRANSFERS
12 MONEY OR ANYTHING OF VALUE THROUGH A TRANSFER OR A SERIES OF TRANSFERS WITH
13 THE INTENT TO PREVENT THE DISCLOSURE OF THE IDENTITY OF ONE OR MORE
14 CONTRIBUTORS.

15 ~~B.~~ C. Except for a contribution to a candidate's campaign committee,
16 an individual or political committee shall not give and a political party or
17 other political committee shall not accept an earmarked contribution.

18 ~~C.~~ D. A standing political committee shall not act as a campaign
19 committee or a sponsoring organization for any candidate, initiative,
20 referendum or recall but may contribute to other political committees as
21 provided by law.

22 Sec. 2. Section 16-912, Arizona Revised Statutes, is amended to read:

23 16-912. Candidates and independent expenditures; campaign literature
24 and advertisement sponsors; identification; civil penalty;
25 definitions

26 A. A political committee that makes an expenditure for campaign
27 literature or advertisements that expressly advocate the election or defeat
28 of any candidate or that make any solicitation of contributions to any
29 political committee shall include on the literature or advertisement the
30 words "paid for by" followed by the name of the committee that appears on its
31 statement of organization or five hundred dollar exemption statement.

32 B. If the expenditure for the campaign literature or advertisements by
33 a political committee is an independent expenditure, the political committee,
34 in addition to the disclosures required by subsection A of this section,
35 shall include on the literature or advertisement the names ~~and telephone~~
36 ~~numbers~~ of the three ~~political committees~~ IDENTIFIABLE CONTRIBUTORS making
37 the largest CUMULATIVE contributions to the political committee making the
38 independent expenditure. If an acronym is used to name any political
39 committee outlined in this section, the name of any sponsoring organization
40 of the political committee shall also be printed or spoken. For the purposes
41 of determining the three IDENTIFIABLE contributors to be disclosed, ~~only~~ the
42 contributions made during the ~~calendar year in which the~~ EIGHTEEN-MONTH
43 PERIOD BEFORE THE FIRST EXPENDITURE THAT IS MADE BY THE COMMITTEE OR PERSON
44 MAKING THE independent expenditure ~~is made~~ shall be considered. IF AN
45 IDENTIFIABLE CONTRIBUTOR REQUIRED TO BE DISCLOSED PURSUANT TO THIS SUBSECTION

1 IS A NATURAL PERSON, THE DISCLOSURE REQUIREMENTS ARE MET BY INDICATING THAT
2 AN INDIVIDUAL CONTRIBUTOR IS ONE OF THE THREE LARGEST IDENTIFIABLE
3 CONTRIBUTORS. FOR STATEWIDE AND LEGISLATIVE CANDIDATES ONLY, THE DISCLOSURE
4 STATEMENT SHALL INCLUDE THE WORDS "GO TO AZSOS.GOV FOR MORE INFORMATION".

5 C. Subsection A of this section does not apply to bumper stickers,
6 pins, buttons, pens and similar small items on which the statements required
7 in subsection A of this section cannot be conveniently printed or to signs
8 paid for by a candidate with campaign monies or by a candidate's campaign
9 committee or to a solicitation of contributions by a separate segregated fund
10 from those persons it may solicit pursuant to sections 16-920 and 16-921.

11 D. The disclosures required pursuant to this section shall be printed
12 clearly and legibly in a conspicuous manner. The disclosure statement shall
13 include the words "paid for by" followed by the name of the entity making the
14 expenditure and shall state that it is not authorized by any candidate or
15 candidate's campaign committee. Disclosure statements shall also comply with
16 the following:

17 1. If the communication is broadcast on radio, the disclosure shall be
18 spoken at the end of the communication.

19 2. For printed material that is delivered or provided by hand or by
20 mail, the disclosure shall be printed clearly and legibly in a conspicuous
21 manner.

22 3. If the communication is broadcast on a telecommunications system,
23 the following apply:

24 (a) The disclosure shall be both written and spoken at the end of the
25 communication, except that if the written disclosure statement is displayed
26 for at least five seconds of a thirty second communications broadcast or ten
27 seconds of a sixty second communications broadcast, a spoken disclosure
28 statement is not required.

29 (b) The written disclosure statement shall be printed in letters that
30 are displayed in a height that is equal to or greater than four percent of
31 the vertical picture height.

32 E. A person who violates this section is subject to a civil penalty of
33 up to three times the cost of producing and distributing the literature or
34 advertisement. This civil penalty shall be imposed as prescribed in section
35 16-924.

36 F. FOR THE PURPOSES OF THIS SECTION:

37 1. "BUSINESS ENTITY" MEANS ANY ENTITY THAT IS NOT A PERSON AS DEFINED
38 IN THIS SECTION WITHOUT REGARD TO WHETHER THE ENTITY IS FORMED IN THIS STATE
39 OR OUTSIDE OF THIS STATE.

40 2. "IDENTIFIABLE CONTRIBUTOR" MEANS A PERSON, POLITICAL COMMITTEE OR
41 BUSINESS ENTITY THAT IS THE ORIGINAL SOURCE OF CONTRIBUTIONS RECEIVED BY A
42 COMMITTEE THAT CUMULATIVELY MEET OR EXCEED TEN THOUSAND DOLLARS FOR A
43 STATEWIDE ELECTION OR TWO THOUSAND DOLLARS FOR A NONSTATEWIDE ELECTION,
44 WITHOUT REGARD TO WHETHER A CONTRIBUTION IS TRANSFERRED IN WHOLE OR IN PART
45 THROUGH ONE OR MORE OTHER COMMITTEES, BUSINESS ENTITIES OR PERSONS.

1 3. "PERSON" MEANS A NATURAL PERSON WITHOUT REGARD TO WHETHER THE
2 PERSON IS LOCATED IN THIS STATE OR OUTSIDE OF THIS STATE.

3 Sec. 3. Section 16-912.01, Arizona Revised Statutes, is amended to
4 read:

5 16-912.01. Ballot measure committees; campaign literature and
6 advertising funding; identification; disclosure;
7 civil penalty; definitions

8 A. A political committee that makes an expenditure in connection with
9 any literature or advertisement to support or oppose a ballot proposition
10 shall disclose and, after November 2, 2010, shall include on the literature
11 or advertisement the words "paid for by", followed by the name of the
12 committee that appears on its statement of organization or five hundred
13 dollar threshold exemption statement, and shall also include in such
14 literature or advertisement the ~~four~~ THREE largest of its ~~major funding~~
15 ~~sources~~ IDENTIFIABLE CONTRIBUTORS as of the time the literature or
16 advertisement is printed, recorded or otherwise produced for dissemination.
17 If a political committee has fewer than ~~four major funding sources~~ THREE
18 IDENTIFIABLE CONTRIBUTORS, the committee shall disclose all major funding
19 sources. IF AN IDENTIFIABLE CONTRIBUTOR REQUIRED TO BE DISCLOSED PURSUANT TO
20 THIS SUBSECTION IS A NATURAL PERSON, THE DISCLOSURE REQUIREMENTS ARE MET BY
21 INDICATING THAT AN INDIVIDUAL CONTRIBUTOR IS ONE OF THE THREE LARGEST
22 CONTRIBUTORS. FOR STATEWIDE MEASURES ONLY, THE DISCLOSURE STATEMENT SHALL
23 INCLUDE THE WORDS "GO TO AZSOS.GOV FOR MORE INFORMATION".

24 B. For the purposes of this section, ~~a major funding source of a~~
25 ~~political committee~~ AN IDENTIFIABLE CONTRIBUTOR is any contributor that ~~is~~
26 ~~not an individual person and that~~ has made cumulative contributions of
27 either:

28 1. ~~Ten~~ FIVE thousand dollars or more for an expenditure in support of
29 or opposition to a statewide ballot proposition or a ballot proposition of a
30 political subdivision with a population of one hundred thousand persons or
31 more.

32 2. ~~Five~~ ONE thousand dollars or more for an expenditure in support of
33 or opposition to a ballot proposition of a political subdivision with a
34 population of less than one hundred thousand persons.

35 C. If an out-of-state contributor or group of out-of-state
36 contributors is ~~a major funding source~~ AN IDENTIFIABLE CONTRIBUTOR to a
37 political committee disclosed pursuant to subsection A of this section, the
38 political committee shall state the contributor is an out-of-state
39 contributor on its literature or advertisement in support of or in opposition
40 to a ballot proposition.

41 D. Contributors that make contributions to more than one political
42 committee that supports or opposes the same ballot proposition shall notify
43 each political committee of the cumulative total of these contributions.
44 Cumulative totals must be disclosed by each political committee that received
45 contributions from the same contributor if the cumulative totals qualify as

1 ~~a major funding source~~ AN IDENTIFIABLE CONTRIBUTOR to be disclosed pursuant
2 to subsection A of this section.

3 E. Any disclosure statement required by this section shall be printed
4 clearly and legibly in a conspicuous manner. For printed material that is
5 delivered or provided by hand or by mail, the disclosure shall be printed in
6 a clearly legible manner. The disclosure statement shall include the words
7 "paid for by" followed by the name of the entity making the expenditure.
8 Disclosure statements shall also comply with the following:

9 1. If the communication is broadcast on radio, the disclosure shall be
10 spoken at the end of the communication.

11 2. If the communication is broadcast on a telecommunications system,
12 the following apply:

13 (a) The disclosure shall be both written and spoken at the end of the
14 communication, except that if the written disclosure statement is displayed
15 for at least five seconds of a thirty second communications broadcast or ten
16 seconds of a sixty second communications broadcast, a spoken disclosure
17 statement is not required.

18 (b) The written disclosure statement shall be printed in letters that
19 are displayed in a height equal to or greater than four ~~per cent~~ PERCENT of
20 the vertical picture height.

21 F. Subsections A and E of this section do not apply to bumper
22 stickers, pins, buttons, pens and similar small items on which the statements
23 required in subsections A and E of this section cannot be conveniently
24 printed or to a communication by an organization solely to its members.

25 G. A committee shall change future literature and advertisements to
26 reflect any change in funding sources that must be disclosed pursuant to
27 subsection A of this section.

28 H. This section ~~only~~ applies to advertisements ~~the contents of which~~
29 ~~are more than fifty per cent devoted to~~ REGARDING one or more ballot
30 propositions or proposed measures on the same subject.

31 I. Any committee that violates this section is liable in a civil
32 action brought by the attorney general, county attorney or city or town
33 attorney, as appropriate, or by any other person for a civil penalty of three
34 times the total cost of the advertisement. A donor who does not accurately
35 disclose its contributions is liable for a civil penalty of three times the
36 amount donated.

37 J. For the purposes of this section, ~~:-~~:

38 1. "Advertisement" means general public advertising through the print
39 and electronic media, signs, billboards and direct mail.

40 2. "BUSINESS ENTITY" MEANS ANY ENTITY THAT IS NOT A PERSON AS DEFINED
41 IN THIS SECTION WITHOUT REGARD TO WHETHER THE ENTITY IS FORMED IN THIS STATE
42 OR OUTSIDE OF THIS STATE.

43 3. "IDENTIFIABLE CONTRIBUTOR" MEANS A PERSON, POLITICAL COMMITTEE OR
44 BUSINESS ENTITY THAT IS THE ORIGINAL SOURCE OF CONTRIBUTIONS RECEIVED BY A
45 COMMITTEE THAT CUMULATIVELY MEET OR EXCEED THE DOLLAR AMOUNT THRESHOLDS

1 PRESCRIBED BY THIS SECTION WITHOUT REGARD TO WHETHER A CONTRIBUTION IS
2 TRANSFERRED IN WHOLE OR IN PART THROUGH ONE OR MORE OTHER COMMITTEES,
3 BUSINESS ENTITIES OR PERSONS.

4 4. "PERSON" MEANS A NATURAL PERSON WITHOUT REGARD TO WHETHER THE
5 PERSON IS LOCATED IN THIS STATE OR OUTSIDE OF THIS STATE.

6 Sec. 4. Section 16-914.02, Arizona Revised Statutes, is amended to
7 read:

8 16-914.02. Reporting independent expenditures of corporations,
9 limited liability companies and labor
10 organizations; statement; disclaimer and
11 disclosure; civil action; civil penalty;
12 violation; classification; definitions

13 A. Any corporation, limited liability company or labor organization
14 that makes cumulative independent expenditures in an attempt to influence the
15 outcome of a candidate election and in at least the following amounts in an
16 election cycle shall register and notify the appropriate filing officer not
17 later than one day after making that expenditure, ~~excluding Saturdays,~~
18 ~~Sundays and other legal holidays:~~

19 1. An aggregate of five thousand dollars or more in one or more
20 statewide races.

21 2. An aggregate of two thousand five hundred dollars or more in one or
22 more legislative races.

23 3. One thousand dollars or more in one or more county, city, town or
24 other local races if the one thousand dollars is aggregated in races in a
25 single county, city, town or other local jurisdiction.

26 B. The secretary of state is the filing officer for registrations and
27 notifications for independent expenditures in statewide and legislative
28 elections. City, town or county filing officers are the filing officers for
29 notifications in a city, town, county or other local election as provided in
30 section 16-916. ANY COMPLAINT REGARDING VIOLATIONS OR ENFORCEMENT OF THIS
31 SECTION SHALL BE FILED WITH THE SECRETARY OF STATE. FOR CITY, TOWN AND
32 COUNTY COMPLAINTS, THE SECRETARY OF STATE MAY REFER THE MATTER TO THE CITY,
33 TOWN OR COUNTY FILING OFFICER OR TO ANOTHER CITY, TOWN OR COUNTY FILING
34 OFFICER OR MAY RETAIN JURISDICTION OVER THE COMPLAINT FOR POSSIBLE FURTHER
35 ACTION, AND ON A REASONABLE CAUSE DETERMINATION, MAY REFER THE MATTER TO THE
36 ATTORNEY GENERAL OR TO THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THE ALLEGED
37 VIOLATION OCCURRED. The corporation, limited liability company or labor
38 organization also shall notify the filing officer within the same time limit
39 prescribed in subsection A of this section of each additional accumulation of
40 expenditures that exceeds the threshold amount prescribed in subsection A of
41 this section but is not required to register again during that election cycle
42 after the initial registration. A corporation, limited liability company or
43 labor organization may register with the filing officer and provide a
44 notarized, sworn statement of authority in advance of the expenditure in
45 anticipation of making an independent expenditure. The secretary of state

1 shall provide for electronic filing for registrations and notifications and
2 shall provide for website access to the information for the public. Filings
3 at the secretary of state's office shall be in the form prescribed by the
4 secretary of state. Other filing officers shall prescribe the format for
5 filing registrations and notifications and shall provide for public access to
6 that information. On or after November 27, 2012 and at the request of the
7 local election filing officer, the secretary of state may provide for
8 electronic filing pursuant to this section for local elections.

9 C. The registration shall include all of the following:

10 1. The name and address of the corporation, limited liability company
11 or labor organization.

12 2. The name, title, electronic mail address and telephone number of
13 the person authorizing the independent expenditure.

14 D. Each notification shall include all of the following:

15 1. The name and address of the corporation, limited liability company
16 or labor organization making the independent expenditure.

17 2. The amount of the expenditure and the name of the vendor or other
18 payee receiving the expenditure.

19 3. The name of the candidate and race in which the expenditure was
20 made and whether the expenditure was in support of or opposition to the
21 candidate.

22 4. The communication medium and description of what was purchased with
23 the expenditure.

24 5. The date of the expenditure.

25 E. If the corporation, limited liability company or labor organization
26 did not register and provide a notarized sworn statement in advance of the
27 expenditure as prescribed by this section, the corporation, limited liability
28 company or labor organization shall file with the secretary of state or other
29 appropriate filing officer within five days after an initial threshold
30 expenditure as prescribed in subsection A of this section a notarized sworn
31 statement that the person, agent or officer filing the registration and
32 notice had authority to make that expenditure on behalf of the corporation,
33 limited liability company or labor organization. Until the secretary of
34 state or other filing officer receives the notarized sworn statement, the
35 filing officer shall categorize the notification as unverified. If the
36 secretary of state or other filing officer does not receive the notarized
37 sworn statement within the required five day time frame, the notification
38 shall be categorized as both unverified and delinquent. The filing officer
39 shall make reasonable efforts to contact the entity that made the expenditure
40 and remove the notification from public view within a reasonable time if
41 unable to verify that the entity made the expenditure and all penalties
42 prescribed in this section apply.

43 F. Any literature or advertisement that is purchased with monies from
44 a corporation, limited liability company or labor organization making an
45 independent expenditure in an attempt to influence the outcome of a candidate

1 election shall disclose the name of the corporation, limited liability
 2 company or labor organization making the expenditure. ~~Any disclosure
 3 statement required by this section shall be printed clearly and legibly in a
 4 conspicuous manner. If the communication is broadcast on radio, the
 5 information shall be spoken at the end of the communication. If the
 6 communication is broadcast on a telecommunications system, the information
 7 shall be both written and spoken at the end of the communication, except that
 8 if the disclosure statement is written for at least five seconds of a thirty
 9 second advertisement broadcast or ten seconds of a sixty second advertisement
 10 broadcast, a spoken disclosure statement is not required. If the
 11 communication is broadcast on a telecommunications system, the written
 12 disclosure statement shall be printed in letters equal to or larger than four
 13 per cent of the vertical picture height. The literature or advertisement
 14 shall include the words "paid for by" in the disclosure followed by the name
 15 of the entity making the expenditure and shall also state that it is not
 16 authorized by any candidate or candidate's campaign committee AND SHALL
 17 COMPLY WITH THE DISCLOSURE REQUIREMENTS PRESCRIBED IN SECTION 16-912.~~

18 G. Subsection F of this section does not apply to bumper stickers,
 19 pins, buttons, pens and similar small items on which the statements required
 20 in subsection F of this section cannot be conveniently printed or to a
 21 communication by an organization solely to its members.

22 H. Any corporation, limited liability company or labor organization
 23 that fails to register, notify or disclose as required by this section is
 24 liable in a civil action pursuant to section 16-924 brought by the attorney
 25 general, county attorney or city or town attorney, as appropriate, for a
 26 civil penalty of up to three times the total amount of the expenditure.

27 I. Any person who makes a knowingly false filing relating to an
 28 independent expenditure pursuant to this section is guilty of a class 1
 29 misdemeanor.

30 J. For violations that occur before November 27, 2012, a reasonable
 31 cause determination for a violation of this section may only be made by the
 32 secretary of state's office and not by any other filing officer. On or after
 33 November 27, 2012, the local election jurisdiction and filing officers may
 34 make their own reasonable cause determinations for violations of this section
 35 or may elect to continue to have the office of the secretary of state make
 36 those reasonable cause determinations on their behalf. A civil or criminal
 37 enforcement action may not be filed until after the issuance of a reasonable
 38 cause determination.

39 K. Any entity that makes an independent expenditure and that is
 40 organized primarily for the purpose of influencing an election ~~and that is~~
 41 SHALL FILE WITH THE FILING OFFICER AS A POLITICAL COMMITTEE AS OTHERWISE
 42 PROVIDED BY LAW IF IT IS EITHER OF THE FOLLOWING:

43 1. A combination of corporations, limited liability companies or labor
 44 organizations. ~~or that is~~

1 2. A corporation, limited liability company or labor organization that
2 accepts donations or contributions ~~shall file with the filing officer as a~~
3 ~~political committee as otherwise provided by law.~~

4 L. IN DETERMINING WHETHER AN ENTITY'S PRIMARY PURPOSE IS INFLUENCING
5 AN ELECTION AS PRESCRIBED IN SUBSECTION K OF THIS SECTION, RELEVANT FACTORS
6 INCLUDE ALL OF THE FOLLOWING:

7 1. THE AMOUNT OF MONIES RECEIVED FROM OR SPENT ON PARTICULAR
8 ACTIVITIES BY THE ENTITY.

9 2. THE MEANS AND MANNER IN WHICH THE ENTITY OBTAINS ITS REVENUE.

10 3. THE AMOUNT OF TIME DEVOTED TO PARTICULAR ACTIVITIES BY THE ENTITY,
11 INCLUDING ACTIVITIES BY VOLUNTEERS ON BEHALF OF THE ENTITY AS WELL AS
12 EMPLOYEES OF THE ENTITY.

13 4. THE MANNER IN WHICH THE ENTITY'S ACTIVITIES ARE CONDUCTED.

14 5. THE PURPOSES FURTHERED BY THE VARIOUS ACTIVITIES OF THE ENTITY.

15 M. THERE IS A REBUTTABLE PRESUMPTION THAT THE ENTITY'S PRIMARY PURPOSE
16 IS INFLUENCING AN ELECTION IF EITHER OF THE FOLLOWING APPLIES:

17 1. DURING THE ONE HUNDRED EIGHTY DAYS IMMEDIATELY PRECEDING ANY
18 INDEPENDENT EXPENDITURE BY THAT ENTITY, A MAJORITY OF THE MONIES THAT ARE
19 SPENT BY THAT ENTITY IS SPENT ON EXPRESS ADVOCACY.

20 2. THE ENTITY IS FORMED WITHIN ONE HUNDRED EIGHTY DAYS BEFORE AN
21 ELECTION AND IT ENGAGES IN EXPRESS ADVOCACY.

22 N. ON RECEIPT OF A COMPLAINT ALLEGING A VIOLATION OF THIS SECTION, THE
23 FILING OFFICER MAY REQUIRE A CORPORATION, LIMITED LIABILITY COMPANY OR LABOR
24 ORGANIZATION TO PROVIDE REASONABLE WRITTEN EVIDENCE THAT ITS PRIMARY PURPOSE
25 IS NOT TO INFLUENCE THE OUTCOME OF AN ELECTION.

26 ~~L.~~ O. For the purposes of this section, an expenditure occurs on the
27 date on which literature or advertisements are deposited at the post office
28 for mailing, submitted to a communications system for broadcast or submitted
29 to a newspaper or similar print medium for printing and, with respect to an
30 expenditure for signs, the date on which a sign is first posted.

31 ~~M.~~ P. For the purposes of this section:

32 1. "EXPRESS ADVOCACY" MEANS EXPRESSLY ADVOCATES AS DEFINED IN SECTION
33 16-901.01.

34 ~~L.~~ 2. "Independent expenditure" has the same meaning prescribed in
35 section 16-901, except that it is made by a corporation, a limited liability
36 company or a labor organization and except as prescribed in subsection ~~L.~~ O
37 of this section.

38 ~~L.~~ 3. "Local election" means an election in a county, city, town,
39 school district or special district.