

REFERENCE TITLE: election commission; campaign finance enforcement

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1336

Introduced by
Senator Meza: Representative Cardenas

AN ACT

AMENDING TITLE 16, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-926; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3024.01; RELATING TO THE ARIZONA ELECTION COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 16, chapter 6, article 1, Arizona Revised Statutes,
3 is amended by adding section 16-926, to read:

4 16-926. Arizona election commission; secretary of state;
5 campaign finance duties

6 BEGINNING IN 2014, THE ARIZONA ELECTION COMMISSION ESTABLISHED PURSUANT
7 TO TITLE 41, CHAPTER 4, ARTICLE 8 SHALL SUCCEED TO THE DUTIES OF THE
8 SECRETARY OF STATE WITH RESPECT TO ACTING AS THE INVESTIGATORY, COMPLIANCE
9 AND ENFORCEMENT OFFICER FOR CAMPAIGN FINANCE LAWS THAT APPLY TO POLITICAL
10 COMMITTEES SUPPORTING OR OPPOSING THE RECALL OF A PUBLIC OFFICER ELECTED
11 STATEWIDE OR TO THE LEGISLATURE, SUPPORTING THE CIRCULATION OF PETITIONS FOR
12 BALLOT MEASURES, QUESTIONS AND PROPOSITIONS APPEARING ON A STATE GENERAL
13 ELECTION BALLOT OR RECALL OF PUBLIC OFFICIALS ELECTED STATEWIDE OR TO THE
14 LEGISLATURE OR SUPPORTING OR OPPOSING CANDIDATES FOR STATE OFFICES AND
15 MEMBERS OF THE LEGISLATURE AND FOR A STATEWIDE INITIATIVE OR REFERENDUM OR
16 ANY MEASURE OR PROPOSITION APPEARING ON A STATE GENERAL ELECTION BALLOT.

17 Sec. 2. Title 41, chapter 4, Arizona Revised Statutes, is amended by
18 adding article 8, to read:

19 ARTICLE 8. ARIZONA ELECTION COMMISSION

20 highest41-811. Arizona election commission; members; terms;
21 staff; meetings; compensation

22 A. THE ARIZONA ELECTION COMMISSION IS ESTABLISHED CONSISTING OF FIVE
23 MEMBERS. NO MORE THAN TWO MEMBERS OF THE COMMISSION SHALL BE MEMBERS OF THE
24 SAME POLITICAL PARTY. OF THE FIRST FOUR MEMBERS APPOINTED, NO MORE THAN TWO
25 SHALL RESIDE IN THE SAME COUNTY. EACH MEMBER SHALL BE A REGISTERED VOTER IN
26 THIS STATE WHO HAS BEEN CONTINUOUSLY REGISTERED WITH THE SAME POLITICAL PARTY
27 OR REGISTERED AS UNAFFILIATED WITH A POLITICAL PARTY FOR FIVE OR MORE YEARS
28 IMMEDIATELY PRECEDING APPOINTMENT, WHO IS COMMITTED TO APPLYING THE
29 PROVISIONS OF THIS SECTION IN AN HONEST, INDEPENDENT AND IMPARTIAL FASHION
30 AND TO UPHOLDING PUBLIC CONFIDENCE IN THE INTEGRITY OF THE ELECTORAL PROCESS.
31 WITHIN THE FIVE YEARS BEFORE APPOINTMENT, MEMBERS SHALL NOT HAVE BEEN
32 APPOINTED TO, ELECTED TO OR A CANDIDATE FOR ANY OTHER PUBLIC OFFICE,
33 INCLUDING PRECINCT COMMITTEEMAN, AND SHALL NOT HAVE SERVED AS AN OFFICER OF A
34 POLITICAL PARTY.

35 B. THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL ESTABLISH A
36 POOL OF PERSONS WHO ARE WILLING TO SERVE ON AND ARE QUALIFIED FOR APPOINTMENT
37 TO THE COMMISSION. THE POOL OF CANDIDATES SHALL CONSIST OF TWENTY-FIVE
38 NOMINEES, WITH TEN NOMINEES FROM EACH OF THE TWO LARGEST POLITICAL PARTIES IN
39 THIS STATE BASED ON PARTY REGISTRATION, AND FIVE WHO ARE NOT REGISTERED WITH
40 EITHER OF THE TWO LARGEST POLITICAL PARTIES IN THIS STATE. THE HIGHEST
41 RANKING OFFICER ELECTED BY THE ARIZONA HOUSE OF REPRESENTATIVES SHALL MAKE
42 ONE APPOINTMENT TO THE COMMISSION FROM THE POOL OF NOMINEES, FOLLOWED BY ONE
43 APPOINTMENT FROM THE POOL MADE IN TURN BY EACH OF THE FOLLOWING: THE
44 MINORITY PARTY LEADER OF THE HOUSE OF REPRESENTATIVES, THE HIGHEST RANKING
45 OFFICER ELECTED BY THE SENATE, AND THE MINORITY PARTY LEADER OF THE SENATE.

1 EACH OFFICIAL SHALL HAVE A SEVEN-DAY PERIOD IN WHICH TO MAKE AN APPOINTMENT.
2 ANY OFFICIAL WHO FAILS TO MAKE AN APPOINTMENT WITHIN THE SPECIFIED TIME
3 PERIOD WILL FORFEIT THE APPOINTMENT PRIVILEGE. IF THERE ARE TWO OR MORE
4 MINORITY PARTIES WITHIN THE HOUSE OF REPRESENTATIVES OR THE SENATE, THE
5 LEADER OF THE LARGEST MINORITY PARTY BY STATEWIDE PARTY REGISTRATION SHALL
6 MAKE THE APPOINTMENT.

7 C. THE FOUR COMMISSION MEMBERS SHALL SELECT BY MAJORITY VOTE FROM THE
8 NOMINATION POOL A FIFTH MEMBER WHO SHALL NOT BE REGISTERED WITH ANY PARTY
9 ALREADY REPRESENTED ON THE COMMISSION AND WHO SHALL SERVE AS CHAIR. IF THE
10 FOUR COMMISSIONERS FAIL TO APPOINT A FIFTH MEMBER WITHIN FIFTEEN DAYS, THE
11 COMMISSION ON APPELLATE COURT APPOINTMENTS, STRIVING FOR POLITICAL BALANCE
12 AND FAIRNESS, SHALL APPOINT A FIFTH MEMBER FROM THE NOMINATION POOL, WHO
13 SHALL SERVE AS CHAIR.

14 D. MEMBERS SHALL SERVE FOUR YEAR TERMS BEGINNING ON THE THIRD MONDAY
15 IN JANUARY. ANY VACANCY ON THE COMMISSION SHALL BE FILLED BY APPOINTMENT BY
16 THE ORIGINAL OFFICER DESIGNATED TO MAKE THE APPOINTMENT.

17 E. THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIRMAN OR ON THE
18 WRITTEN REQUEST OF A MAJORITY OF THE MEMBERS.

19 F. MEMBERS ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO
20 TITLE 38, CHAPTER 4, ARTICLE 2.

21 41-811.01. Arizona election commission; powers and duties
22 relating to campaign finance; enforcement

23 A. THE ARIZONA ELECTION COMMISSION SHALL:

24 1. APPOINT AN EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR MAY HIRE
25 STAFF AS APPROPRIATE TO CARRY OUT THE DUTIES OF THE COMMISSION.

26 2. ESTABLISH A SYSTEM TO ENSURE THAT ALL FILINGS RECEIVED BY THE
27 COMMISSION ARE PROCESSED IN A TIMELY MANNER AND ARE READILY AVAILABLE TO THE
28 PUBLIC.

29 3. ON REQUEST, ISSUE ADVISORY OPINIONS REGARDING CAMPAIGN FINANCE AND
30 DISCLOSURE LAWS TO CANDIDATES FOR PUBLIC OFFICE AND TO COMMITTEES SUPPORTING
31 OR OPPOSING ANY INITIATIVE, REFERENDUM OR OTHER MEASURE TO BE SUBMITTED TO A
32 STATEWIDE VOTE OF THE PUBLIC.

33 4. ADOPT, AMEND OR REPEAL RULES PURSUANT TO CHAPTER 6 OF THIS TITLE TO
34 CARRY OUT THE PURPOSES OF THIS ARTICLE AND TITLE 16, CHAPTER 6, ARTICLE 1.

35 5. CONDUCT INVESTIGATIONS INTO THE SUBJECT OF ANY COMPLAINT BROUGHT
36 BEFORE THE COMMISSION BY A MEMBER OF THE PUBLIC, A CANDIDATE FOR PUBLIC
37 OFFICE OR A COMMITTEE SUPPORTING OR OPPOSING ANY INITIATIVE, REFERENDUM OR
38 OTHER MEASURE TO BE SUBMITTED TO A STATEWIDE VOTE OF THE PUBLIC.

39 6. CONDUCT AUDITS OF ANY CANDIDATE FOR PUBLIC OFFICE OR ANY COMMITTEE
40 SUPPORTING OR OPPOSING ANY INITIATIVE, REFERENDUM OR OTHER MEASURE TO BE
41 SUBMITTED TO A STATEWIDE VOTE OF THE PUBLIC.

42 7. CONDUCT A HEARING PURSUANT TO CHAPTER 6 OF THIS TITLE IF THE
43 COMMISSION DETERMINES AFTER AN INVESTIGATION OR AUDIT THAT A HEARING IS
44 WARRANTED.

1 8. IMPOSE PENALTIES AND TAKE ENFORCEMENT ACTION AS PRESCRIBED BY TITLE
2 16, CHAPTER 6, ARTICLE 1.

3 B. THE ARIZONA ELECTION COMMISSION OR A MEMBER OF THE COMMISSION MAY:

4 1. ADMINISTER OATHS, EXAMINE WITNESSES AND RECEIVE EVIDENCE RELATING
5 TO AN INVESTIGATION OR HEARING CONDUCTED PURSUANT TO THIS SECTION.

6 2. ISSUE AND ENFORCE SUBPOENAS COMPELLING THE ATTENDANCE AND TESTIMONY
7 OF WITNESSES OR DEMANDING THE PRODUCTION OF PHYSICAL EVIDENCE RELATING TO AN
8 INVESTIGATION OR HEARING CONDUCTED PURSUANT TO THIS SECTION.

9 C. THE ATTORNEY GENERAL AND THE COUNTY ATTORNEY FOR THE COUNTY IN
10 WHICH THE ALLEGED VIOLATION OCCURRED MAY ENFORCE THE PROVISIONS OF THIS
11 ARTICLE AND TITLE 16, CHAPTER 6, ARTICLE 1 THROUGH CIVIL AND CRIMINAL
12 ACTIONS.

13 D. THE COMMISSION SHALL USE THE FOLLOWING PROCEDURE TO INVESTIGATE A
14 COMPLAINT FILED PURSUANT TO THIS SECTION:

15 1. THE COMMISSION SHALL NOTIFY THE PERSON AGAINST WHOM A COMPLAINT HAS
16 BEEN FILED WITHIN TWO BUSINESS DAYS OF RECEIPT OF THE COMPLAINT. NOTICE
17 SHALL BE MADE BY CERTIFIED MAIL AND SHALL INCLUDE A COPY OF THE COMPLAINT,
18 ANY SUPPORTING DOCUMENTATION ACCOMPANYING THE COMPLAINT AND A COPY OF THIS
19 SECTION.

20 2. WITHIN SEVEN DAYS AFTER MAILING THE NOTICE, THE PERSON AGAINST WHOM
21 A COMPLAINT HAS BEEN FILED MAY FILE A RESPONSE WITH THE COMMISSION.

22 3. ON RECEIPT OF THE RESPONSE OR THE EXPIRATION OF THE SEVEN-DAY
23 PERIOD, WHICHEVER IS SOONER, THE COMMISSION, BY MAJORITY VOTE, SHALL EITHER
24 DISMISS THE COMPLAINT WITHIN SEVEN DAYS OR PROCEED WITH A FORMAL
25 INVESTIGATION. IF THE COMPLAINT IS DISMISSED THE COMPLAINT AND ANSWER SHALL
26 BE KEPT CONFIDENTIAL. IF THE COMMISSION VOTES TO PROCEED WITH A FORMAL
27 INVESTIGATION, THE PERSON AGAINST WHOM A COMPLAINT HAS BEEN FILED SHALL BE
28 NOTIFIED BY CERTIFIED MAIL, A FORMAL HEARING DATE SHALL BE SET AND THE
29 COMPLAINT AND ANSWER SHALL BE MADE PUBLIC. A FORMAL HEARING SHALL BEGIN AT
30 LEAST FIVE DAYS BUT NOT MORE THAN TWENTY DAYS AFTER THE NOTICE IS MAILED.

31 4. FAILURE TO FILE AN ANSWER SHALL NOT BE DEEMED TO BE AN ADMISSION OR
32 TO CREATE AN INFERENCE OR PRESUMPTION THAT THE COMPLAINT IS TRUE.

33 5. BY MAJORITY VOTE, THE COMMISSION MAY MODIFY THE TIME PERIODS
34 CONTAINED IN THIS SUBSECTION.

35 41-811.02. Arizona election commission; attorney

36 THE ATTORNEY GENERAL SHALL PROVIDE ONE OR MORE ATTORNEYS TO RENDER
37 LEGAL ADVICE AND ASSISTANCE TO THE ARIZONA ELECTION COMMISSION.
38 NOTWITHSTANDING SECTION 41-192, THE ARIZONA ELECTION COMMISSION MAY EMPLOY
39 PRIVATE ATTORNEYS TO REPRESENT THE COMMISSION.

40 41-811.03. Secretary of state; access to filings

41 THE SECRETARY OF STATE SHALL COOPERATE WITH AND PROVIDE SHARED ACCESS
42 TO THE ARIZONA ELECTION COMMISSION FOR ALL CAMPAIGN FINANCE FILINGS OVER
43 WHICH THE ARIZONA ELECTION COMMISSION HAS JURISDICTION AS PRESCRIBED BY THIS
44 ARTICLE.

