

REFERENCE TITLE: **campaign finance; independent expenditures; disclosure**

State of Arizona
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SB 1403

Introduced by
Senators Reagan, Farley, Gallardo, Ward: Barto, Begay, Bradley, Burges,
Cajero Bedford, Landrum Taylor, Meza, Yarbrough

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; violation; classification

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

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

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

17 ~~C.~~ D. For THE purposes of this article, a contribution from
18 partnership funds shall only be made in the name of the individual partners
19 who make the contribution.

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

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

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

28 A. A political committee that makes an expenditure for campaign
29 literature or advertisements that expressly advocate the election or defeat
30 of any candidate or that make any solicitation of contributions to any
31 political committee shall be registered pursuant to this chapter at the time
32 of distribution, placement or solicitation and shall include on the
33 literature or advertisement the words "paid for by" followed by the name of
34 the committee that appears on its statement of organization or five hundred
35 dollar exemption statement.

36 B. If the expenditure for the campaign literature or advertisements by
37 a political committee is an independent expenditure, the political committee,
38 in addition to the disclosures required by subsection A of this section,
39 shall include on the literature or advertisement the names ~~and telephone~~
40 ~~numbers~~ of the three ~~political committees~~ IDENTIFIABLE CONTRIBUTORS making
41 the largest CUMULATIVE contributions to the political committee making the
42 independent expenditure. If an acronym is used to name any political
43 committee outlined in this section, the name of any sponsoring organization
44 of the political committee shall also be printed or spoken. For the purposes
45 of determining the three IDENTIFIABLE contributors to be disclosed, ~~only~~ the

1 contributions made during the ~~calendar year in which the~~ EIGHTEEN MONTH
2 PERIOD BEFORE THE FIRST EXPENDITURE THAT IS MADE BY THE COMMITTEE OR PERSON
3 MAKING THE independent expenditure ~~is made~~ shall be considered. IF AN
4 IDENTIFIABLE CONTRIBUTOR REQUIRED TO BE DISCLOSED PURSUANT TO THIS SUBSECTION
5 IS AN INDIVIDUAL, THE DISCLOSURE REQUIREMENTS ARE MET BY INDICATING THAT AN
6 INDIVIDUAL CONTRIBUTOR IS ONE OF THE THREE LARGEST IDENTIFIABLE CONTRIBUTORS.
7 FOR STATEWIDE AND LEGISLATIVE CANDIDATES ONLY, THE DISCLOSURE STATEMENT SHALL
8 INCLUDE THE WORDS "GO TO AZSOS.GOV FOR MORE INFORMATION".

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

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

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

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

26 3. If the communication is broadcast on a telecommunications system,
27 the following apply:

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

33 (b) The written disclosure statement shall be printed in letters that
34 are displayed in a height that is equal to or greater than four per cent of
35 the vertical picture height.

36 E. A person who violates this section is subject to a civil penalty of
37 up to three times the cost of producing and distributing the literature or
38 advertisement. This civil penalty shall be imposed as prescribed in section
39 16-924.

40 F. FOR THE PURPOSES OF THIS SECTION:

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

44 2. "IDENTIFIABLE CONTRIBUTOR" MEANS A PERSON, POLITICAL COMMITTEE OR
45 BUSINESS ENTITY THAT IS THE ORIGINAL SOURCE OF CONTRIBUTIONS RECEIVED BY A

1 COMMITTEE THAT CUMULATIVELY MEET OR EXCEED TEN THOUSAND DOLLARS FOR A
2 STATEWIDE ELECTION OR TWO THOUSAND DOLLARS FOR A NONSTATEWIDE ELECTION,
3 WITHOUT REGARD TO WHETHER A CONTRIBUTION IS TRANSFERRED IN WHOLE OR IN PART
4 THROUGH ONE OR MORE OTHER COMMITTEES, BUSINESS ENTITIES OR PERSONS.

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

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

9 16-912.01. Ballot measure committees; campaign literature and
10 advertising funding; identification; disclosure;
11 civil penalty; definitions

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

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

32 1. ~~Ten~~ FIVE thousand dollars or more for an expenditure in support of
33 or opposition to a statewide ballot proposition or a ballot proposition of a
34 political subdivision with a population of one hundred thousand persons or
35 more.

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

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

1 D. Contributors that make contributions to more than one political
2 committee that supports or opposes the same ballot proposition shall notify
3 each political committee of the cumulative total of these contributions.
4 Cumulative totals must be disclosed by each political committee that received
5 contributions from the same contributor if the cumulative totals qualify as
6 ~~a major funding source~~ AN IDENTIFIABLE CONTRIBUTOR to be disclosed pursuant
7 to subsection A of this section.

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

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

16 2. If the communication is broadcast on a telecommunications system,
17 the following apply:

18 (a) The disclosure shall be both written and spoken at the end of the
19 communication, except that if the written disclosure statement is displayed
20 for at least five seconds of a thirty second communications broadcast or ten
21 seconds of a sixty second communications broadcast, a spoken disclosure
22 statement is not required.

23 (b) The written disclosure statement shall be printed in letters that
24 are displayed in a height equal to or greater than four per cent of the
25 vertical picture height.

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

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

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

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

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

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

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

4 3. "IDENTIFIABLE CONTRIBUTOR" MEANS A PERSON, POLITICAL COMMITTEE OR
5 BUSINESS ENTITY THAT IS THE ORIGINAL SOURCE OF CONTRIBUTIONS RECEIVED BY A
6 COMMITTEE THAT CUMULATIVELY MEET OR EXCEED THE DOLLAR AMOUNT THRESHOLDS
7 PRESCRIBED BY THIS SECTION WITHOUT REGARD TO WHETHER A CONTRIBUTION IS
8 TRANSFERRED IN WHOLE OR IN PART THROUGH ONE OR MORE OTHER COMMITTEES,
9 BUSINESS ENTITIES OR PERSONS.

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

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

14 16-914.02. Reporting independent expenditures of corporations,
15 limited liability companies and labor
16 organizations; statement; disclaimer and
17 disclosure; civil action; civil penalty;
18 violation; classification; definitions

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

25 1. An aggregate of five thousand dollars or more in one or more
26 statewide races.

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

29 3. One thousand dollars or more in one or more county, city, town or
30 other local races if the one thousand dollars is aggregated in races in a
31 single county, city, town or other local jurisdiction.

32 B. The secretary of state is the filing officer for registrations and
33 notifications for independent expenditures in statewide and legislative
34 elections. City, town or county filing officers are the filing officers for
35 notifications in a city, town, county or other local election as provided in
36 section 16-916. ANY COMPLAINT REGARDING VIOLATIONS OR ENFORCEMENT OF THIS
37 SECTION SHALL BE FILED WITH THE SECRETARY OF STATE. FOR CITY, TOWN AND
38 COUNTY COMPLAINTS, THE SECRETARY OF STATE MAY REFER THE MATTER TO THE CITY,
39 TOWN OR COUNTY FILING OFFICER OR TO ANOTHER CITY, TOWN OR COUNTY FILING
40 OFFICER OR MAY RETAIN JURISDICTION OVER THE COMPLAINT FOR POSSIBLE FURTHER
41 ACTION, AND ON A REASONABLE CAUSE DETERMINATION, MAY REFER THE MATTER TO THE
42 ATTORNEY GENERAL OR TO THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THE ALLEGED
43 VIOLATION OCCURRED. The corporation, limited liability company or labor
44 organization also shall notify the filing officer within the same time limit
45 prescribed in subsection A of this section of each additional accumulation of

1 expenditures that exceeds the threshold amount prescribed in subsection A of
2 this section but is not required to register again during that election cycle
3 after the initial registration. A corporation, limited liability company or
4 labor organization may register with the filing officer and provide a
5 notarized, sworn statement of authority in advance of the expenditure in
6 anticipation of making an independent expenditure. The secretary of state
7 shall provide for electronic filing for registrations and notifications and
8 shall provide for website access to the information for the public. Filings
9 at the secretary of state's office shall be in the form prescribed by the
10 secretary of state. Other filing officers shall prescribe the format for
11 filing registrations and notifications and shall provide for public access to
12 that information. On or after November 27, 2012 and at the request of the
13 local election filing officer, the secretary of state may provide for
14 electronic filing pursuant to this section for local elections.

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

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

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

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

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

23 2. The amount of the expenditure and the name of the vendor or other
24 payee receiving the expenditure.

25 3. The name of the candidate and race in which the expenditure was
26 made and whether the expenditure was in support of or opposition to the
27 candidate.

28 4. The communication medium and description of what was purchased with
29 the expenditure.

30 5. The date of the expenditure.

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

1 and remove the notification from public view within a reasonable time if
2 unable to verify that the entity made the expenditure and all penalties
3 prescribed in this section apply.

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

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

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

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

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

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

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

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

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

13 1. THE AMOUNT OF MONIES RECEIVED FROM OR SPENT ON PARTICULAR
14 ACTIVITIES BY THE ENTITY.

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

16 3. THE AMOUNT OF TIME DEVOTED TO PARTICULAR ACTIVITIES BY THE ENTITY,
17 INCLUDING ACTIVITIES BY VOLUNTEERS ON BEHALF OF THE ENTITY AS WELL AS
18 EMPLOYEES OF THE ENTITY.

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

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

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

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

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

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

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

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

38 1. "EXPRESS ADVOCACY" MEANS EXPRESSLY ADVOCATES AS DEFINED IN SECTION
39 16-901.01.

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

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