State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

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

Section 1. Section 16-907, Arizona Revised Statutes, is amended to read:

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

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

B. It is a violation of subsection A of this section if an officer of a corporation, limited liability company or labor organization transfers money or anything of value through a transfer or a series of transfers with the intent to prevent the disclosure of the identity of one or more contributors.

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

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

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

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

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

B. If the expenditure for the campaign literature or advertisements by a political committee is an independent expenditure, the political committee, in addition to the disclosures required by subsection A of this section, shall include on the literature or advertisement the names and telephone numbers of the three political committees IDENTIFIABLE CONTRIBUTORS making the largest CUMULATIVE contributions to the political committee making the independent expenditure. If an acronym is used to name any political committee outlined in this section, the name of any sponsoring organization of the political committee shall also be printed or spoken. For the purposes of determining the three IDENTIFIABLE contributors to be disclosed, only the contributions made during the calendar year in which the EIGHTEEN-MONTH PERIOD BEFORE THE FIRST EXPENDITURE THAT IS MADE BY THE COMMITTEE OR PERSON MAKING THE independent expenditure is made shall be considered. IF AN IDENTIFIABLE CONTRIBUTOR REQUIRED TO BE DISCLOSED PURSUANT TO THIS SUBSECTION
IS A NATURAL PERSON, THE DISCLOSURE REQUIREMENTS ARE MET BY INDICATING THAT
AN INDIVIDUAL CONTRIBUTOR IS ONE OF THE THREE LARGEST IDENTIFIABLE
CONTRIBUTORS. FOR STATEWIDE AND LEGISLATIVE CANDIDATES ONLY, THE DISCLOSURE
STATEMENT SHALL INCLUDE THE WORDS "GO TO AZSOS.GOV FOR MORE INFORMATION".

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

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

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

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

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

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

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

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

F. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

A. A political committee that makes an expenditure in connection with any literature or advertisement to support or oppose a ballot proposition shall disclose and, after November 2, 2010, shall include on the literature or advertisement the words "paid for by", followed by the name of the committee that appears on its statement of organization or five hundred dollar threshold exemption statement, and shall also include in such literature or advertisement the four THREE largest of its major funding sources IDENTIFIABLE CONTRIBUTORS as of the time the literature or advertisement is printed, recorded or otherwise produced for dissemination.

If a political committee has fewer than four major funding sources THREE IDENTIFIABLE CONTRIBUTORS, the committee shall disclose all major funding sources. IF AN IDENTIFIABLE CONTRIBUTOR REQUIRED TO BE DISCLOSED PURSUANT TO THIS SUBSECTION IS A NATURAL PERSON, THE DISCLOSURE REQUIREMENTS ARE MET BY INDICATING THAT AN INDIVIDUAL CONTRIBUTOR IS ONE OF THE THREE LARGEST CONTRIBUTORS. FOR STATEWIDE MEASURES ONLY, THE DISCLOSURE STATEMENT SHALL INCLUDE THE WORDS "GO TO AZSOS.GOV FOR MORE INFORMATION".

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

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

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

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

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

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

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

2. If the communication is broadcast on a telecommunications system,
the following apply:
   (a) The disclosure shall be both written and spoken at the end of the
communication, except that if the written disclosure statement is displayed
for at least five seconds of a thirty second communications broadcast or ten
seconds of a sixty second communications broadcast, a spoken disclosure
statement is not required.
   (b) The written disclosure statement shall be printed in letters that
are displayed in a height equal to or greater than four per-cent PERCENT of
the vertical picture height.

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

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

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

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

J. For the purposes of this section—:
   1. "Advertisement" means general public advertising through the print
and electronic media, signs, billboards and direct mail.

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

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

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

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

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

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

1. An aggregate of five thousand dollars or more in one or more
statewide races.
2. An aggregate of two thousand five hundred dollars or more in one or
more legislative races.
3. One thousand dollars or more in one or more county, city, town or
other local races if the one thousand dollars is aggregated in races in a
single county, city, town or other local jurisdiction.

B. The secretary of state is the filing officer for registrations and
notifications for independent expenditures in statewide and legislative
elections. City, town or county filing officers are the filing officers for
notifications in a city, town, county or other local election as provided in
section 16-916. ANY COMPLAINT REGARDING VIOLATIONS OR ENFORCEMENT OF THIS
SECTION SHALL BE FILED WITH THE SECRETARY OF STATE. FOR CITY, TOWN AND
COUNTY COMPLAINTS, THE SECRETARY OF STATE MAY REFER THE MATTER TO THE CITY,
TOWN OR COUNTY FILING OFFICER OR TO ANOTHER CITY, TOWN OR COUNTY FILING
OFFICER OR MAY RETAIN JURISDICTION OVER THE COMPLAINT FOR POSSIBLE FURTHER
ACTION, AND ON A REASONABLE CAUSE DETERMINATION, MAY REFER THE MATTER TO THE
ATTORNEY GENERAL OR TO THE COUNTY ATTORNEY OF THE COUNTY IN WHICH THE ALLEGED
VIOLATION OCCURRED. The corporation, limited liability company or labor
organization also shall notify the filing officer within the same time limit
prescribed in subsection A of this section of each additional accumulation of
expenditures that exceeds the threshold amount prescribed in subsection A of
this section but is not required to register again during that election cycle
after the initial registration. A corporation, limited liability company or
labor organization may register with the filing officer and provide a
notarized, sworn statement of authority in advance of the expenditure in
anticipation of making an independent expenditure. The secretary of state
shall provide for electronic filing for registrations and notifications and shall provide for website access to the information for the public. Filings at the secretary of state's office shall be in the form prescribed by the secretary of state. Other filing officers shall prescribe the format for filing registrations and notifications and shall provide for public access to that information. On or after November 27, 2012 and at the request of the local election filing officer, the secretary of state may provide for electronic filing pursuant to this section for local elections.

C. The registration shall include all of the following:
   1. The name and address of the corporation, limited liability company or labor organization.
   2. The name, title, electronic mail address and telephone number of the person authorizing the independent expenditure.

D. Each notification shall include all of the following:
   1. The name and address of the corporation, limited liability company or labor organization making the independent expenditure.
   2. The amount of the expenditure and the name of the vendor or other payee receiving the expenditure.
   3. The name of the candidate and race in which the expenditure was made and whether the expenditure was in support of or opposition to the candidate.
   4. The communication medium and description of what was purchased with the expenditure.
   5. The date of the expenditure.

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

F. Any literature or advertisement that is purchased with monies from a corporation, limited liability company or labor organization making an independent expenditure in an attempt to influence the outcome of a candidate
election shall disclose the name of the corporation, limited liability company or labor organization making the expenditure. Any disclosure statement required by this section shall be printed clearly and legibly in a conspicuous manner. If the communication is broadcast on radio, the information shall be spoken at the end of the communication. If the communication is broadcast on a telecommunications system, the information shall be both written and spoken at the end of the communication, except that if the disclosure statement is written for at least five seconds of a thirty second advertisement broadcast or ten seconds of a sixty second advertisement broadcast, a spoken disclosure statement is not required. If the communication is broadcast on a telecommunications system, the written disclosure statement shall be printed in letters equal to or larger than four per cent of the vertical picture height. The literature or advertisement shall include the words "paid for by" in the disclosure followed by the name of the entity making the expenditure and shall also state that it is not authorized by any candidate or candidate's campaign committee and shall comply with the disclosure requirements prescribed in section 16-912.

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

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

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

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

K. Any entity that makes an independent expenditure and that is organized primarily for the purpose of influencing an election shall file with the filing officer as a political committee as otherwise provided by law if it is either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

P. For the purposes of this section:

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

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

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