



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

FINAL AMENDED
FACT SHEET FOR H.B. 2297

political advertisements; contributors; disclosure

Purpose

Alters the disclosure requirement political committee must make on campaign literature and advertisements and modifies Laws 2016, Chapter 79 (S.B. 1516, campaign finance amendments).

Background

A.R.S. Title 16, Chapter 6, provides requirements with regard to campaign contributions and expenses in relation to elections and electors. Statute defines *expenditure* to include, with certain exceptions, any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer and a contract, promise or agreement to make an expenditure resulting in an extension of credit and the value of any in-kind contribution received. Statute defines *independent expenditure* as any expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate. An independent expenditure must be made without cooperation, consultation or in concert with, or at the request or suggestion of a candidate, committee or agent of the candidate (A.R.S. § 16-901).

Currently, statute requires 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 to 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 \$500 exemption statement. Additionally, if the expenditure for the literature or advertisement is an independent expenditure, the political committee must also include the names and telephone numbers of the three political committees making the largest contributions to that committee. Statute requires consideration of only the contributions made during the calendar year in which the independent expenditure is made in determining the three contributors that must be disclosed (A.R.S. § 16-912).

Similarly, any campaign literature or advertisement purchased with monies from a corporation, limited liability company (LLC) or labor organization making an independent

expenditure in an attempt to influence the outcome of a candidate election must disclose the name of the corporation, LLC or labor organization making the expenditure (A.R.S. §16-912.02).

Laws 2016, Chapter 79 (S.B. 1516) repeals, reorganizes, modifies and reinserts campaign finance requirements beginning January 1, 2017. Among its provisions, it consolidates the different types of political committees, increases the contribution threshold before a candidate or entity must register and requires the Secretary of State (SOS) to increase that amount biennially. The legislation also provides guidance for determining whether an entity's *primary purpose* is to influence the result of an election, and modifies the exemptions from contributions and expenditures. Finally, the bill allows a candidate committee to transfer contributions to another candidate's committee and removes certain criminal violations related to campaign finance. H.B. 2297 modifies these provisions.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Independent Expenditure Disclosure Requirements Underlying Bill

1. Requires an independent expenditure by a political committee for campaign literature or advertisements include up to three of the largest contributions, if the contributions make up 20 percent or more of the total contributions to the political committee.
2. Requires the names of the three political committees that have made the largest amount of aggregate contributions to be disclosed, if no political committee has contributed the requisite percentage above.

Campaign Finance Amendments Laws 2016, Chapter 79

Contributions

3. Prohibits a candidate committee from making contributions to a candidate committee for another candidate.
4. Allows a candidate committee that intends to terminate to contribute surplus monies to a candidate committee for another candidate under the following conditions:
 - a) a candidate committee makes the contribution after the statutory time period for filing a nomination paper;
 - b) the candidate associated with the candidate committee that makes the contribution did not file a nomination paper to run for election in the current election cycle;
 - c) in the case of a candidate committee for legislative office, the candidate committee makes the contribution when the Legislature is not in regular legislative session; and
 - d) the candidate committee makes the contribution within the campaign contribution limits for individuals.
5. Prohibits a candidate committee from *knowingly* accepting contributions over the limits.

6. Permits a candidate committee to reattribute an unknowingly accepted excess contribution only if both of the following apply:
 - a) the excess contribution was received from an individual contributor; and
 - b) the contributor authorizes the committee to reattribute the excess amount to another individual who was identified as a joint account holder in the original instrument used to make the excess contribution.
7. Modifies the circumstances in which a candidate committee may transfer unlimited contributions to a candidate committee for the same candidate. Instead of both committees being registered for a local or statewide office, it prohibits a city or town candidate committee from transferring contributions to that same candidate's committee for a statewide or legislative office.
8. Allows a city or town candidate committee to transfer contributions to a county candidate committee for that same candidate.
9. Prohibits a county candidate committee from transferring contributions received from a city or town candidate committee for that same candidate to a candidate committee for a statewide or legislative office for that same candidate for 24 months immediately following the transfer.
10. Clarifies that candidate committees may only accept contributions from an individual, partnership, candidate committee, political action committee (PAC) or political party.
11. Clarifies that a PAC or political party may only contribute to a candidate committee or nominee using monies contributed by an individual, partnership, candidate committee, PAC or political party.

Violations

12. Reinserts the class 2 misdemeanor penalty for a corporation, LLC or labor organization that makes a contribution to a candidate committee and the class 6 felony penalty for the individual through whom the violation is effected.
13. Specifies that the above penalties do not apply to a committee incorporated or organized for limitation of liability.
14. Restores the class 6 felonies for making a contribution in another person's name, knowingly allowing a person's name to be used in such a way or knowingly accepting such a contribution.
15. Reestablishes the following actions as unlawful, broader than originally written, as they only used to apply to corporations and labor organizations:
 - a) a person making a contribution or expenditure using money or anything of value secured by physical force, job discrimination or financial reprisal, including threats of such; and
 - b) a person making a contribution or expenditure using dues, fees or other monies required as a condition of membership in a labor organization or as a condition of employment.

16. Classifies the above two offenses as class 6 felonies.

Transition

17. Requires the authorized officers of a political committee in existence on November 8, 2016, to terminate the committee by June 30, 2017.

18. Prohibits the political committee from conducting any activity after November 8, 2016, except for winding down its operations.

19. Permits the filing officer for the appropriate jurisdiction to administratively terminate or convert any political committee that has not terminated by June 30, 2017, to the appropriate committee as prescribed in S.B. 1516, as follows:

- a) the filing officer may convert an exploratory committee to a candidate committee;
- b) the filing officer may convert a political organization to a political party; or
- c) the filing officer may convert a recall committee, ballot measure committee, candidate campaign committee, independent expenditure committee, separate segregated fund or any other type of political committee to a PAC.

20. Allows a jurisdiction's filing officer to reasonably adjust the campaign finance filing deadlines if that jurisdiction conducts an election on March 14, 2017, if compliance with the new filing requirements would create a substantial hardship.

Miscellaneous

21. Requires the reporting period for a candidate committee's first campaign finance report of the election cycle to include the entire election cycle to date.

22. Specifies an entity is not organized for the primary purpose of influencing an election if the appropriate factors apply *at the time the contribution or expenditure is made*. Requires the entity to file the appropriate forms in compliance with the most recent filing deadline established by IRS regulations or policies.

23. Removes guidelines regarding when contributions, expenditures and disbursements are deemed made.

24. Requires committees to segregate contributions from partnerships, candidate committees, PACs and political parties into different accounts from contributions from other donors.

25. Establishes a window of 90 to 120 days before the primary election for filing nomination papers, rather than a deadline of 180 days before the primary.

26. Specifies the following for any jurisdiction that opts into the SOS's electronic campaign finance filing system:

- a) prohibits the jurisdiction from being charged any initial or ongoing fee until after December 31, 2018; and

- b) allows subsequent costs for maintenance of or upgrades to the system to be charged to participating jurisdictions, but requires the SOS to disclose the costs no later than December 1 in the year before the fiscal year in which the costs will be assessed to allow for budget planning by the jurisdictions.

27. Modifies definitions.

28. Changes the delayed effective date of S.B. 1516 and these modifications from January 1, 2017, to November 5, 2016.

Miscellaneous

29. Makes technical and conforming changes.

30. Becomes effective on the general effective date, except as otherwise noted.

Amendments Adopted by Committee of the Whole

1. Alters the underlying bill to identify the required contribution disclosure regarding campaign literature or advertisements if no political committee has contributed the requisite percentage.
2. Makes various changes to Laws 2016, Chapter 79 (S.B. 1516, campaign finance amendments) as listed below.
3. Prohibits a candidate committee from making a contribution to a candidate committee for another candidate.
4. Allows a candidate committee that intends to terminate to contribute surplus monies to a candidate committee for another candidate under specified conditions.
5. Reinserts certain criminal penalties related to campaign finance violations.
6. Places restrictions on candidate committees' ability to reattribute excess contributions.
7. Modifies a candidate committee's ability to transfer contributions to another committee for the same candidate.
8. Clarifies the origins of contributions candidate committees may accept and PACs and political parties may contribute.
9. Modifies committee bank account segregation requirements and the nomination paper filing deadline.
10. Requires a candidate committee's first campaign finance report to include the entire election cycle to date.

11. Establishes guidelines for transitioning political committees to the new system and for the Secretary of State to charge fees for jurisdictions that opt into its filing system.
12. Deletes guidelines for when contributions, expenditures or disbursements are deemed made.
13. Modifies definitions.
14. Changes the delayed effective date of S.B. 1516 from January 1, 2017, to November 5, 2016.

Amendments Adopted by Conference Committee

1. Expands the ability of candidate committees to transfer contributions between committees for that same candidate, but adds a time limit to ensure an illegal transfer does not occur.

House Action

ELECT	2/15/16	DP	4-2-0-0-0
3 rd Read	2/24/16		35-23-2-0
Final Read	5/07/16		31-24-5-0

Senate Action

GOV	3/16/16	DP	4-3-0-0
3 rd Read	5/06/16		17-11-2-0
Final Read	5/07/16		17-11-2-0

Signed by the Governor 5/18/2016
Chapter 347

Prepared by Senate Research
June 1, 2016
RH/rf