

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 134
HOUSE BILL 2153

AMENDING SECTIONS 16-901 AND 16-905, 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 16-901, Arizona Revised Statutes, is amended to
3 read:

4 **16-901. Definitions**

5 In this chapter, unless the context otherwise requires:

6 1. "Advertisement" means information or materials, other than
7 nonpaid social media messages, that are mailed, e-mailed, posted,
8 distributed, published, displayed, delivered, broadcasted or placed in a
9 communication medium and that are for the purpose of influencing an
10 election.

11 2. "Affiliate" means any organization that controls, is controlled
12 by or is under common control with a corporation, limited liability
13 company or labor organization.

14 3. "Agent" means any person who has actual authority, either
15 express or implied, to represent or make decisions on behalf of another
16 person.

17 4. "Ballot measure expenditure" means an expenditure made by a
18 person that expressly advocates the support or opposition of a clearly
19 identified ballot measure.

20 5. "Best effort" means that a committee treasurer or treasurer's
21 agent makes at least one written effort, including an attempt by e-mail,
22 text message, private message through social media or other similar
23 communication, or at least one oral effort that is documented in writing
24 to identify the contributor of an incomplete contribution.

25 6. "Calendar quarter" means a period of three consecutive calendar
26 months ending on March 31, June 30, September 30 or December 31.

27 7. "Candidate" means an individual who receives contributions or
28 makes expenditures or who gives consent to another person to receive
29 contributions or make expenditures on behalf of that individual in
30 connection with the candidate's nomination, election or retention for any
31 public office.

32 8. "Candidate committee" includes the candidate.

33 9. "Clearly identified candidate" means that the name or a
34 description, image, photograph or drawing of the candidate appears or the
35 identity of the candidate is otherwise apparent by unambiguous reference.

36 10. "Committee" means a candidate committee, a political action
37 committee or a political party.

38 11. "Contribution" means any money, advance, deposit or other thing
39 of value that is made to a person for the purpose of influencing an
40 election. Contribution includes:

41 (a) A contribution that is made to retire campaign debt from a
42 previous election cycle.

43 (b) Money or the fair market value of anything that is directly or
44 indirectly provided to an elected official for the specific purpose of
45 defraying the expense of communications with constituents.

(c) The full purchase price of any item from a committee.

(d) A loan that is made to a committee for the purpose of influencing an election, to the extent the loan remains outstanding.

12. "Control" means to possess, directly or indirectly, the power to direct or to cause the direction of the management or policies of another organization, whether through voting power, ownership, contract or otherwise.

13. "Coordinate", "coordinated" or "coordination" means the coordination of an expenditure as prescribed by section 16-922.

14. "Coordinated party expenditures" means expenditures that are made by a political party to directly pay for goods or services on behalf of its nominee.

15. "District office" means an elected office established or organized pursuant to title 15 or 48.

16. "Earmarked" means a designation, instruction or encumbrance between the transferor of a contribution and a transferee that requires the transferee to make a contribution to a clearly identified candidate.

17. "Election" means any election for any ballot measure in this state or any candidate election during a primary, general, recall, special or runoff election for any office in this state other than a federal office and a political party office prescribed by chapter 5, article 2 of this title.

18. "Election cycle" means the two-year period beginning on January 1 in the year after a statewide general election and ending on December 31 in the year of a statewide general election or, for cities and towns, the two-year period beginning on the first day of the calendar quarter after the calendar quarter in which the city's or town's second, runoff or general election is scheduled and ending on the last day of the calendar quarter in which the city's or town's immediately following second, runoff or general election is scheduled, however that election is designated by the city or town. For the purposes of a:

(a) Recall election, "election cycle" means the period between issuance of a recall petition serial number and the latest of the following:

(i) The date of the recall election that is called pursuant to section 19-209.

(ii) The date that a resignation is accepted pursuant to section 19-208.

(iii) The date that the receiving officer provides notice pursuant to section 19-208.01 that the number of signatures is insufficient.

(b) Special election, "election cycle" means the period between the date of issuance of a proclamation or order calling the special election and the last day of the calendar quarter in which the special election is held.

1 19. "Employee" means an individual who is entitled to compensation
2 for labor or services performed for the individual's employer.

3 20. "Employer" means any person that pays compensation to and
4 directs the labor or services of any individual in the course of
5 employment.

6 21. "Enforcement officer" means the attorney general or the county,
7 city or town attorney with authority to collect fines or issue penalties
8 with respect to a given election pursuant to section 16-938.

9 22. "Entity" means a corporation, limited liability company, labor
10 organization, partnership, trust, association, organization, joint
11 venture, cooperative, unincorporated organization or association or other
12 organized group that consists of more than one individual.

13 23. "Excess contribution" means a contribution that exceeds the
14 applicable contribution limits for a particular election.

15 24. "Exclusive insurance contract" means an insurance producer's
16 contract with an insurer that does either of the following:

17 (a) Prohibits the producer from soliciting insurance business for
18 any other insurer.

19 (b) Requires a right of first refusal on all lines of insurance
20 business written by the insurer and solicited by the producer.

21 25. "Expenditure" means any purchase, payment or other thing of
22 value that is made by a person for the purpose of influencing an election.

23 26. "Family contribution" means any contribution that is provided
24 to a candidate's committee by the parent, grandparent, aunt, uncle, child
25 or sibling of the candidate or the candidate's spouse, including the
26 spouse of any of the listed family members, regardless of whether the
27 relation is established by marriage or adoption.

28 27. "Filing officer" means the secretary of state or the county,
29 city or town officer in charge of elections for that jurisdiction who
30 accepts statements and reports for those elections pursuant to section
31 16-928.

32 28. "Firewall" means a written policy that precludes one person
33 from sharing information with another person.

34 29. "Identification" or "identify" means:

35 (a) For an individual, the individual's first and last name,
36 residence location or street address and occupation and the name of the
37 individual's primary employer.

38 (b) For any other person, the person's full name and physical
39 location or street address.

40 30. "Incomplete contribution" means any contribution that is
41 received by a committee for which the contributor's complete
42 identification has not been obtained.

43 31. "Independent expenditure" means an expenditure by a person,
44 other than a candidate committee, that complies with both of the
45 following:

(a) Expressly advocates the election or defeat of a clearly identified candidate.

(b) Is not made in cooperation or consultation with or at the request or suggestion of the candidate or the candidate's agent.

32. "In-kind contribution" means a contribution of goods, services or anything of value that is provided without charge or at less than the usual and normal charge.

8 33. "Insurance producer" means a person that:

(a) Is required to be licensed to sell, solicit or negotiate insurance.

(b) Has an exclusive insurance contract with an insurer.

34. "Itemized" means that each contribution received or expenditure made is set forth separately.

35. "Labor organization" means any employee representation organization that exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

36. "Legislative office" means the office of representative in the state house of representatives or senator in the state senate.

37. "Mega PAC status" means official recognition that a political action committee has received contributions from five hundred or more individuals in amounts of ten dollars or more in the four-year period immediately before application to the secretary of state.

38. "Nominee" means a candidate who prevails in a primary election for partisan office and includes the nominee's candidate committee.

39. "Person" means an individual or a candidate, nominee, committee, corporation, limited liability company, labor organization, partnership, trust, association, organization, joint venture, cooperative or unincorporated organization or association.

40. "Personal monies" means any of the following:

(a) Assets to which the individual or individual's spouse has either legal title or an equitable interest.

(b) Salary and other earned income from bona fide employment of the individual or individual's spouse.

(c) Dividends and proceeds from the sale of investments of the individual or individual's spouse.

(d) Bequests to the individual or individual's spouse

(e) Income to the individual or individual's spouse from revocable trusts for which the individual or individual's spouse is a beneficiary.

(f) Gifts of a personal nature to the individual or individual's spouse that would have been given regardless of whether the individual became a candidate or accepted a contribution.

(g) The proceeds of loans obtained by the individual or individual's spouse that are secured by collateral or security provided by the individual or individual's spouse.

(h) Family contributions.

41. "Political action committee" means an entity that is required to register as a political action committee pursuant to section 16-905.

42. "Political party" means a committee that meets the requirements for recognition as a political party pursuant to chapter 5 of this title.

43. "Primary purpose" means an entity's predominant purpose. Notwithstanding any other law or rule, an entity is not organized for the primary purpose of influencing an election if all of the following apply at the time the contribution or expenditure is made:

(a) The entity has tax exempt status under section 501(a) of the internal revenue code.

(b) Except for a religious organization, assembly or institution, the entity has properly filed a form 1023 or form 1024 with the internal revenue service or the equivalent successor form designated by the internal revenue service.

(c) The entity's tax exempt status has not been denied or revoked by the internal revenue service.

(d) The entity remains in good standing with the corporation commission.

~~(e)~~ (d) The entity has properly filed a form 990 with the internal revenue service or the equivalent successor form designated by the internal revenue service in compliance with the most recent filing deadline established by internal revenue service regulations or policies.

44. "Retention" means the election process by which a superior court judge, appellate court judge or supreme court justice is retained in office as prescribed by article VI, section 38 or 40, Constitution of Arizona.

45. "Separate segregated fund" means a fund established by a corporation, limited liability company, labor organization or partnership that is required to register as a political action committee.

46. "Social media messages" means forms of communication, including internet sites for social networking or blogging, through which users create a personal profile and participate in online communities to share information, ideas and personal messages.

47. "Sponsor" means any person that establishes, administers or contributes financial support to the administration of a political action committee or that has common or overlapping membership or officers with that political action committee.

48. "Standing committee" means a political action committee or political party that is active in more than one reporting jurisdiction in this state and that files a statement of organization in a format prescribed by the secretary of state.

49. "Statewide office" means the office of governor, secretary of state, state treasurer, attorney general, superintendent of public instruction, corporation commissioner or mine inspector.

1 50. "Surplus monies" means those monies of a terminating committee
2 that remain after all of the committee's expenditures have been made, all
3 debts have been extinguished and the committee ceases accepting
4 contributions.

5 Sec. 2. Section 16-905, Arizona Revised Statutes, is amended to
6 read:

16-905. Committee qualification: requirements: exemption: adjustments

9 A. A candidate for election or retention shall register as a
10 candidate committee if the candidate receives contributions or makes
11 expenditures, in any combination, of at least one thousand dollars in
12 connection with that candidacy.

13 B. An entity shall register as a political action committee if both
14 of the following apply:

15 1. The entity is organized for the primary purpose of influencing
16 the result of an election.

17 2. The entity knowingly receives contributions or makes
18 expenditures, in any combination, of at least one thousand dollars in
19 connection with any election during a calendar year.

20 C. A filing officer or enforcement officer shall make a rebuttable
21 presumption that an entity is organized for the primary purpose of
22 influencing the result of an election if the entity meets any of the
23 following:

24 1. Except for a religious organization, assembly or institution,
25 claims tax exempt status but had not filed form 1023 or form 1024 with the
26 internal revenue service, or the equivalent successor form designated by
27 the internal revenue service, before making a contribution or expenditure.

28 2. Made a contribution or expenditure and at that time had its tax
29 exempt status revoked by the internal revenue service.

30 3. Made a contribution or expenditure and at that time failed to
31 file form 990 with the internal revenue service, or the equivalent
32 successor form designated by the internal revenue service, if required by
33 law.

34 4. At the time of making a contribution or expenditure was not
35 registered with the corporation commission if required by law.

36 5. At the time of making a contribution or expenditure was
37 registered with the corporation commission but was not in good standing.

38 D. EXCEPT AS PRESCRIBED IN SUBSECTIONS B AND C OF THIS SECTION AND
39 SECTION 16-938, A FILING OFFICER, ENFORCEMENT OFFICER OR OTHER OFFICER OF
40 A CITY, TOWN, COUNTY OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT
41 REQUIRE AN ENTITY THAT CLAIMS TAX EXEMPT STATUS UNDER SECTION 501(a) OF
42 THE INTERNAL REVENUE CODE AND THAT REMAINS IN GOOD STANDING WITH THE
43 INTERNAL REVENUE SERVICE TO DO ANY OF THE FOLLOWING:

44 1. REGISTER OR FILE AS A POLITICAL ACTION COMMITTEE.

1 2. REPORT OR OTHERWISE DISCLOSE PERSONALLY IDENTIFYING INFORMATION
2 RELATING TO INDIVIDUALS WHO HAVE MADE CONTRIBUTIONS TO THAT ENTITY.

3 3. DISCLOSE ITS SCHEDULE B, FORM 990.

4 4. SUBMIT TO AN AUDIT OR SUBPOENA OR PRODUCE EVIDENCE REGARDING A
5 POTENTIAL CAMPAIGN FINANCE VIOLATION.

6 ~~D.~~ E. A fund that is established by a corporation, limited
7 liability company, labor organization or partnership for the purpose of
8 influencing the result of an election shall register as a political action
9 committee.

10 ~~E.~~ F. An entity may register as a political party committee only
11 as prescribed in chapter 5 of this title.

12 ~~F.~~ G. A committee is not subject to state income tax and is not
13 required to file a state income tax return.

14 ~~G.~~ H. The dollar amounts prescribed by this section shall be
15 increased every two years pursuant to section 16-931.

APPROVED BY THE GOVERNOR APRIL 5, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2018.