

REFERENCE TITLE: elections; signature gathering; prevention; reporting

State of Arizona
House of Representatives
Fifty-third Legislature
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2017

HB 2274

Introduced by
Representatives Clark: Andrade, Salman, Senators Bowie, Mendez, Quezada

AN ACT

AMENDING SECTIONS 16-901 AND 16-926, 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 ~~proscribed~~ 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 between successive statewide general elections or, for cities and towns, the two-year period between the scheduled date of the city's or town's second, runoff or general election and the scheduled date of the immediately following second, runoff or general election, however designated by the city or town. For purposes of a recall election, "election cycle" means the period between issuance of a recall petition serial number and the latest of the following:

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

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

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

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

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

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

1 22. "Entity" means a corporation, limited liability company, labor
2 organization, partnership, trust, association, organization, joint
3 venture, cooperative, unincorporated organization or association or other
4 organized group that consists of more than one individual.

5 23. "Excess contribution" means a contribution that exceeds the
6 applicable contribution limits for a particular election.

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

9 (a) Prohibits the producer from soliciting insurance business for
10 any other insurer.

11 (b) Requires a ~~first~~ right of **FIRST** refusal on all lines of
12 insurance business written by the insurer and solicited by the producer.

13 25. "Expenditure" means any purchase, payment or other thing of
14 value that is made by a person for the purpose of influencing an election
**AND INCLUDES ANY PAYMENT OR OTHER THING OF VALUE THAT IS MADE FOR THE
PURPOSE OF PREVENTING THE COLLECTION OF SIGNATURES OR THE DISTRIBUTION OF
PETITIONS FOR A BALLOT MEASURE OR A CANDIDATE'S NOMINATION.**

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

23 27. "Filing officer" means the secretary of state or the county,
24 city or town officer in charge of elections for that jurisdiction who
25 accepts statements and reports for those elections pursuant to section
26 16-928.

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

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

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

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

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

38 31. "Independent expenditure" means an expenditure by a person,
39 other than a candidate committee, that complies with both of the
40 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (h) Family contributions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 50. "Surplus monies" means those monies of a terminating committee
44 that remain after all of the committee's expenditures have been made, all

1 debts have been extinguished and the committee ceases accepting
2 contributions.

3 Sec. 2. Section 16-926, Arizona Revised Statutes, is amended to
4 read:

5 **16-926. Campaign finance reports; contents**

6 A committee shall file campaign finance reports with the filing
7 officer. The secretary of state's instructions and procedures manual
8 adopted pursuant to section 16-452 shall prescribe the format for all
9 reports and statements.

10 B. A campaign finance report shall set forth:

11 1. The amount of cash on hand at the beginning of the reporting
12 period.

13 2. Total receipts during the reporting period, including:

14 (a) An itemized list of receipts in the following categories,
15 including the source, amount and date of receipt, together with the total
16 of all receipts in each category:

17 (i) Contributions from individuals whose contributions exceed fifty
18 dollars for that election cycle, including identification of the
19 contributor's occupation and employer.

20 (ii) Contributions from candidate committees.

21 (iii) Contributions from political action committees.

22 (iv) Contributions from political parties.

23 (v) Contributions from partnerships.

24 (vi) For a political action committee or political party,
25 contributions from corporations and limited liability companies, including
26 identification of the corporation's or limited liability company's file
27 number issued by the corporation commission.

28 (vii) For a political action committee or political party,
29 contributions from labor organizations, including identification of the
30 labor organization's file number issued by the corporation commission.

31 (viii) For a candidate committee, a candidate's contribution of
32 personal monies.

33 (ix) All loans, including identification of any endorser or
34 guarantor other than a candidate's spouse, and the contribution amount
35 endorsed or guaranteed by each.

36 (x) Rebates and refunds.

37 (xi) Interest on committee monies.

38 (xii) The fair market value of in-kind contributions received.

39 (xiii) Extensions of credit that remain outstanding, including
40 identification of the creditor and the purpose of the extension.

41 (b) The aggregate amount of contributions from all individuals
42 whose contributions do not exceed fifty dollars for the election cycle.

43 3. An itemized list of all disbursements in excess of two hundred
44 fifty dollars during the reporting period in the following categories,
45 including the recipient, the recipient's address, a description of the

1 disbursement and the amount and date of the disbursement, together with
2 the total of all disbursements in each category:

3 (a) Disbursements for operating expenses, **INCLUDING AS A SEPARATE**
4 **LINE ITEM EXPENDITURES MADE FOR THE PURPOSE OF PREVENTING THE COLLECTION**
5 **OF SIGNATURES OR THE DISTRIBUTION OF PETITIONS FOR A CANDIDATE'S**
6 **NOMINATION.**

7 (b) Contributions to candidate committees.

8 (c) Contributions to political action committees.

9 (d) Contributions to political parties.

10 (e) Contributions to partnerships.

11 (f) For a political action committee or political party, contributions to corporations and limited liability companies, including identification of the corporation's or limited liability company's file number issued by the corporation commission.

12 (g) For a political action committee or political party, contributions to labor organizations, including identification of the labor organization's file number issued by the corporation commission.

13 (h) Repayment of loans.

14 (i) Refunds of contributions.

15 (j) Loans made.

16 (k) The value of in-kind contributions provided.

17 (l) Independent expenditures that are made to advocate the election or defeat of a candidate, including identification of the candidate, office sought by the candidate, election date, mode of advertising and distribution or publication date **AND INCLUDING AS A SEPARATE LINE ITEM**
18 **INDEPENDENT EXPENDITURES MADE FOR THE PURPOSE OF PREVENTING THE COLLECTION**
19 **OF SIGNATURES OR THE DISTRIBUTION OF PETITIONS FOR A CANDIDATE'S**
20 **NOMINATION.**

21 (m) Expenditures to advocate the passage or defeat of a ballot measure, including identification of the ballot measure, ballot measure serial number, election date, mode of advertising and distribution or publication date **AND INCLUDING AS A SEPARATE LINE ITEM EXPENDITURES MADE**
22 **FOR THE PURPOSE OF PREVENTING THE COLLECTION OF SIGNATURES OR THE**
23 **DISTRIBUTION OF PETITIONS FOR A BALLOT MEASURE.**

24 (n) Expenditures to advocate for or against the issuance of a recall election order or for the election or defeat of a candidate in a recall election, including identification of the officer to be recalled or candidate supported or opposed, mode of advertising and distribution or publication date.

25 (o) Any other disbursements or expenditures.

26 4. The total sum of all receipts and disbursements for the reporting period.

27 5. A certification by the committee treasurer, issued under penalty of perjury, that the contents of the report are true and correct.

1 C. For the purposes of reporting under subsection B of this
2 section:

3 1. A contribution is deemed to be received either on the date the
4 committee knowingly takes possession of the contribution or the date of
5 the check or credit card payment. For an in-kind contribution of
6 services, the contribution is deemed made either on the date the services
7 are performed or the date the committee receives the services.

8 2. An expenditure or disbursement is deemed made either on the date
9 the committee authorizes the monies to be spent or the date the monies are
10 withdrawn from the committee's account. For a transaction by check, the
11 expenditure or disbursement is deemed made on the date the committee signs
12 the check. For a credit card transaction on paper, the expenditure or
13 disbursement is deemed made on the date the committee signs the
14 authorization to charge the credit card. For an electronic transaction,
15 an expenditure or disbursement is deemed made on the date the committee
16 electronically authorizes the charge. For an agreement to purchase goods
17 or services, the expenditure or disbursement is deemed made either on the
18 date the parties enter into the agreement or the date the purchase order
19 is issued.

20 3. A committee may record its transactions using any of the methods
21 authorized by this subsection but for each type of contribution,
22 expenditure or disbursement made or received, the committee shall use a
23 consistent method of recording transactions throughout the election cycle.

24 D. The amount of an in-kind contribution of services shall be equal
25 to the usual and normal charges for the services on the date performed.

26 E. If any receipt or disbursement is earmarked, the committee shall
27 report the identity of the person to whom the receipt or disbursement is
28 earmarked.

29 F. Candidate committee reports shall be cumulative for the election
30 cycle to which they relate. Political action committee and political
31 party reports shall be cumulative for a two-year election cycle ending in
32 the year of a statewide general election. If there has been no change
33 during the reporting period in an item listed in the immediately preceding
34 report, only the amount need be carried forward.

35 G. For a political action committee that receives individual
36 contributions through a payroll deduction plan, that committee is not
37 required to separately itemize each contribution received from the
38 contributor during the reporting period. In lieu of itemization, the
39 committee may report all of the following:

40 1. The aggregate amount of contributions received from the
41 contributor through the payroll deduction plan during the reporting
42 period.

43 2. The individual's identity.
44 3. The amount deducted per pay period.

1 H. An entity that makes independent expenditures or ballot measure
2 expenditures in excess of one thousand dollars during a reporting period
3 shall file an expenditure report with the filing officer for the
4 applicable reporting period. Expenditure reports shall identify the
5 candidate or ballot measure supported or opposed, office sought by the
6 candidate, if any, election date, mode of advertising and first date of
7 publication, display, delivery or broadcast of the advertisement.

8 I. IN ADDITION TO ANY REPORTS OTHERWISE PRESCRIBED BY THIS SECTION,
9 AN ENTITY THAT MAKES ONE OR MORE EXPENDITURES FOR THE PURPOSE OF
10 PREVENTING THE COLLECTION OF SIGNATURES OR THE DISTRIBUTION OF PETITIONS
11 FOR A CANDIDATE OR A BALLOT MEASURE AND THE EXPENDITURES CUMULATIVELY
12 TOTAL ONE THOUSAND DOLLARS OR MORE SHALL FILE AN EXPENDITURE REPORT WITH
13 THE FILING OFFICER. THE REPORT SHALL IDENTIFY THE CANDIDATE OR BALLOT
14 MEASURE SUPPORTED OR OPPOSED, THE OFFICE SOUGHT BY THE CANDIDATE, IF ANY,
15 THE AMOUNT OF THE EXPENDITURE AND THE DATE THE EXPENDITURE WAS MADE. ANY
16 ENTITY THAT HAS MADE AN EXPENDITURE THAT IS REPORTABLE PURSUANT TO THIS
17 SUBSECTION SHALL FILE A SUPPLEMENTAL REPORT EACH TIME THE ENTITY MAKES
18 ADDITIONAL EXPENDITURES THAT CUMULATIVELY TOTAL ONE THOUSAND DOLLARS OR
19 MORE. EACH REPORT SHALL BE FILED WITHIN TWENTY-FOUR HOURS AFTER THE
20 EXPENDITURE WAS MADE.