

REFERENCE TITLE: campaign finance; public service corporations

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1481

Introduced by
Senators Mendez: Alston, Bradley, Dalessandro, Gonzales, Navarrete,
Otondo, Peshlakai, Quezada, Rios, Steele

AN ACT

AMENDING TITLE 16, CHAPTER 6, ARTICLE 1.2, ARIZONA REVISED STATUTES, BY
ADDING SECTION 16-916.01; AMENDING TITLE 16, CHAPTER 6, ARTICLE 1.3,
ARIZONA REVISED STATUTES, BY ADDING SECTION 16-923; 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. Title 16, chapter 6, article 1.2, Arizona Revised Statutes, is amended by adding section 16-916.01, to read:

16-916.01. Public service corporation contributions:
corporation commission; prohibition; definitions

A. A PUBLIC SERVICE CORPORATION, AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC SERVICE CORPORATION OR ITS AFFILIATE MAY NOT CONTRIBUTE DIRECTLY OR INDIRECTLY TO A CORPORATION COMMISSION CANDIDATE OR CANDIDATE COMMITTEE.

B. A CORPORATION COMMISSION CANDIDATE MAY NOT ACCEPT OR SOLICIT CONTRIBUTIONS DIRECTLY OR INDIRECTLY FROM A PUBLIC SERVICE CORPORATION, AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC SERVICE CORPORATION OR ITS AFFILIATE.

C. FOR THE PURPOSES OF THIS SECTION:

1. "AFFILIATE" OR "AFFILIATE OF A PUBLIC SERVICE CORPORATION" MEANS ANY PERSON OR ENTITY THAT CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH A PUBLIC SERVICE CORPORATION OR ANY PERSON OR ENTITY THAT ACCEPTS CONTRIBUTIONS FROM A PUBLIC SERVICE CORPORATION OR THE SEPARATE SEGREGATED FUND OF A PUBLIC SERVICE CORPORATION WITHIN THE SAME CALENDAR YEAR IN WHICH THE PERSON OR ENTITY ALSO MAKES ANY CONTRIBUTION TO A CORPORATION COMMISSION CANDIDATE.

2. "CONTROL" MEANS TO POSSESS, DIRECTLY OR INDIRECTLY, THE POWER TO DIRECT OR TO CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF ANOTHER PERSON OR ENTITY, WHETHER THROUGH VOTING POWER, OWNERSHIP, CONTRACT OR OTHERWISE.

3. "PRINCIPAL" MEANS:

(a) AN AGENT, A DIRECTOR, MANAGER, PARTNER, OFFICER OR OWNER OF A PUBLIC SERVICE CORPORATION OR AN AFFILIATE OF A PUBLIC SERVICE CORPORATION.

(b) THE SPOUSE OR DEPENDENT CHILD OF ANY PERSON LISTED IN SUBDIVISION (a) OF THIS PARAGRAPH.

(c) A POLITICAL COMMITTEE THAT IS ESTABLISHED, MAINTAINED, CONTROLLED OR FUNDED BY A PUBLIC SERVICE CORPORATION OR AN AFFILIATE OF A PUBLIC SERVICE CORPORATION.

4. "PUBLIC SERVICE CORPORATION" HAS THE SAME MEANING PRESCRIBED IN ARTICLE XV, SECTION 2, CONSTITUTION OF ARIZONA.

Sec. 2. Title 16, chapter 6, article 1.3, Arizona Revised Statutes, is amended by adding section 16-923, to read:

16-923. Coordinated public service corporation expenditures:
covered expenditures; firewall; definitions

A. NOTWITHSTANDING SECTION 16-922, AN EXPENDITURE BY A PUBLIC SERVICE CORPORATION, AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC SERVICE CORPORATION OR ITS AFFILIATE IS NOT AN INDEPENDENT EXPENDITURE IF THE EXPENDITURE IS A COORDINATED PUBLIC SERVICE CORPORATION EXPENDITURE. A COORDINATED PUBLIC SERVICE CORPORATION

1 EXPENDITURE IS DEEMED TO BE AN IN-KIND CONTRIBUTION TO THE CORPORATION
2 COMMISSION CANDIDATE. ALL OF THE FOLLOWING APPLY TO COORDINATED PUBLIC
3 SERVICE CORPORATION EXPENDITURES:

4 1. THE FOLLOWING CONSTITUTE COORDINATED PUBLIC SERVICE CORPORATION
5 EXPENDITURES:

6 (a) ANY PAYMENT BY A PUBLIC SERVICE CORPORATION, AN AFFILIATE OF A
7 PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC SERVICE CORPORATION
8 OR ITS AFFILIATE FOR A COMMUNICATION THAT REPUBLISHES, DISSEMINATES OR
9 DISTRIBUTES IN WHOLE OR PART AN ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL
10 CREATED OR PREPARED BY A CORPORATION COMMISSION CANDIDATE, UNLESS THE
11 ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL IS USED TO OPPOSE THE CORPORATION
12 COMMISSION CANDIDATE THAT CREATED OR PREPARED THE MATERIAL.

13 (b) ANY COVERED EXPENDITURE THAT IS MADE BY A PUBLIC SERVICE
14 CORPORATION, AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL
15 OF A PUBLIC SERVICE CORPORATION OR ITS AFFILIATE IN COOPERATION OR
16 CONSULTATION WITH OR AT THE REQUEST OR SUGGESTION OF A CORPORATION
17 COMMISSION CANDIDATE.

18 2. A PAYMENT OR EXPENDITURE IS NOT A COORDINATED PUBLIC SERVICE
19 CORPORATION EXPENDITURE IF THE PAYMENT OR EXPENDITURE IS FOR A CANDIDATE
20 DEBATE OR FORUM CONDUCTED PURSUANT TO PROCEDURES ADOPTED BY THE SECRETARY
21 OF STATE OR IS FOR A COMMUNICATION THAT SOLELY PROMOTES A CANDIDATE DEBATE
22 OR FORUM AND IS MADE BY OR ON BEHALF OF THE PERSON SPONSORING THE DEBATE
23 OR FORUM.

24 3. "CORPORATION COMMISSION CANDIDATE" INCLUDES:

25 (a) AN EMPLOYEE OR INDEPENDENT CONTRACTOR, IF THE EMPLOYEE OR
26 CONTRACTOR HAS EXECUTIVE OR MANAGERIAL AUTHORITY FOR THE CORPORATION
27 COMMISSION CANDIDATE OR CANDIDATE COMMITTEE AT ANY TIME DURING THE FOUR
28 YEARS PRECEDING THE EXPENDITURE.

29 (b) AN AGENT OF THE CORPORATION COMMISSION CANDIDATE OR CANDIDATE
30 COMMITTEE, WHETHER PAID OR UNPAID, AT ANY TIME DURING THE FOUR YEARS
31 PRECEDING THE EXPENDITURE, WITHOUT REGARD TO WHETHER THE AGENT IS ACTING
32 WITHIN THE SCOPE OF THE AGENCY WHEN ENGAGED IN THE CONDUCT PRESCRIBED IN
33 THIS SUBSECTION.

34 B. NOTWITHSTANDING SECTION 16-922, IF A PUBLIC SERVICE CORPORATION,
35 AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC
36 SERVICE CORPORATION OR ITS AFFILIATE MAKES A COVERED EXPENDITURE IN
37 COOPERATION OR CONSULTATION WITH OR AT THE REQUEST OR SUGGESTION OF A
38 CORPORATION COMMISSION CANDIDATE, THAT COVERED EXPENDITURE IS NOT AN
39 INDEPENDENT EXPENDITURE AND IS DEEMED TO BE AN IN-KIND CONTRIBUTION TO THE
40 CORPORATION COMMISSION CANDIDATE IF ANY OF THE FOLLOWING APPLIES:

41 1. THE EXPENDITURE IS MADE PURSUANT TO ANY EXPRESS OR IMPLIED
42 AGREEMENT WITH, OR ANY GENERAL OR PARTICULAR UNDERSTANDING WITH OR
43 PURSUANT TO ANY REQUEST BY OR COMMUNICATION WITH, THE CORPORATION
44 COMMISSION CANDIDATE REGARDING THE EXPENDITURE.

1 2. DURING THE FOUR YEARS PRECEDING THE EXPENDITURE, THE PERSON
2 MAKING THE EXPENDITURE WAS DIRECTLY OR INDIRECTLY ESTABLISHED, MAINTAINED,
3 CONTROLLED OR PRINCIPALLY FUNDED BY THE CORPORATION COMMISSION CANDIDATE
4 OR AN IMMEDIATE FAMILY MEMBER OF THE CORPORATION COMMISSION CANDIDATE.
5 FOR THE PURPOSES OF THIS PARAGRAPH, "IMMEDIATE FAMILY MEMBER" MEANS A
6 PARENT, CHILD, SIBLING, SPOUSE, DOMESTIC PARTNER, FATHER-IN-LAW OR
7 MOTHER-IN-LAW OF THE CORPORATION COMMISSION CANDIDATE.

8 3. DURING THE FOUR YEARS PRECEDING THE EXPENDITURE, THE CORPORATION
9 COMMISSION CANDIDATE SOLICITED FUNDS FOR THE PERSON MAKING THE
10 EXPENDITURE, PROVIDED NONPUBLIC FUND-RAISING INFORMATION OR STRATEGY TO
11 THE PERSON, APPEARED AS A SPEAKER OR FEATURED GUEST AT A FUND-RAISER FOR
12 THE PERSON OR GAVE PERMISSION TO BE FEATURED IN FUND-RAISING EFFORTS FOR
13 THE PERSON.

14 4. THE EXPENDITURE IS BASED ON NONPUBLIC INFORMATION ABOUT THE
15 CORPORATION COMMISSION CANDIDATE'S CAMPAIGN NEEDS OR PLANS THAT THE
16 CORPORATION COMMISSION CANDIDATE OR CANDIDATE COMMITTEE DIRECTLY OR
17 INDIRECTLY PROVIDED TO THE PERSON MAKING THE EXPENDITURE, SUCH AS
18 INFORMATION ABOUT CAMPAIGN MESSAGING, STRATEGY, FUND-RAISING, PLANNED
19 EXPENDITURES OR POLLING DATA. A COMMUNICATION BETWEEN THE PERSON MAKING
20 THE EXPENDITURE AND THE CORPORATION COMMISSION CANDIDATE OR CANDIDATE
21 COMMITTEE THAT IS SOLELY FOR THE PURPOSE OF DISCUSSING THE PERSON'S
22 POSITION ON A POLICY MATTER OR DISCUSSING WHETHER THE PERSON WILL ENDORSE
23 THE CORPORATION COMMISSION CANDIDATE AND THAT DOES NOT INCLUDE NONPUBLIC
24 INFORMATION ABOUT THE CORPORATION COMMISSION CANDIDATE'S CAMPAIGN NEEDS OR
25 PLANS DOES NOT CONSTITUTE COORDINATION.

26 5. DURING THE FOUR YEARS PRECEDING THE EXPENDITURE, THE PERSON
27 MAKING THE EXPENDITURE, EXCEPT FOR ACCOUNTING OR LEGAL SERVICES, EMPLOYED
28 OR OTHERWISE RETAINED THE SERVICES OF A PERSON WHO, AT ANY TIME DURING THE
29 SAME FOUR-YEAR PERIOD, MET ANY OF THE FOLLOWING CRITERIA:

30 (a) HAD EXECUTIVE OR MANAGERIAL AUTHORITY FOR THE CORPORATION
31 COMMISSION CANDIDATE COMMITTEE, WHETHER PAID OR UNPAID.

32 (b) WAS AUTHORIZED TO RAISE OR SPEND MONIES FOR THE CORPORATION
33 COMMISSION CANDIDATE AND WHO HAD NONPUBLIC INFORMATION FROM THE
34 CORPORATION COMMISSION CANDIDATE ABOUT THE CAMPAIGN'S PLANS OR NEEDS.

35 (c) PROVIDED THE CORPORATION COMMISSION CANDIDATE WITH PROFESSIONAL
36 SERVICES RELATED TO CAMPAIGN OR FUND-RAISING STRATEGY, OTHER THAN
37 ACCOUNTING OR LEGAL SERVICES.

38 C. FOR THE PURPOSES OF SUBSECTION B OF THIS SECTION, A CORPORATION
39 COMMISSION CANDIDATE INCLUDES:

40 1. AN EMPLOYEE OR INDEPENDENT CONTRACTOR, IF THE EMPLOYEE OR
41 INDEPENDENT CONTRACTOR HAD EXECUTIVE OR MANAGERIAL AUTHORITY FOR THE
42 CORPORATION COMMISSION CANDIDATE OR CANDIDATE COMMITTEE AT ANY TIME DURING
43 THE FOUR YEARS PRECEDING THE EXPENDITURE.

1 2. AN AGENT OF THE CORPORATION COMMISSION CANDIDATE OR CANDIDATE
2 COMMITTEE, WHETHER PAID OR UNPAID, AT ANY TIME DURING THE FOUR YEARS
3 PRECEDING THE EXPENDITURE, WITHOUT REGARD TO WHETHER THE AGENT IS ACTING
4 WITHIN THE SCOPE OF THE AGENCY WHEN ENGAGED IN THE CONDUCT PRESCRIBED IN
5 SUBSECTION B OF THIS SECTION.

6 D. NOTWITHSTANDING SUBSECTION B, PARAGRAPH 5 OF THIS SECTION, A
7 COVERED EXPENDITURE IS NOT A COORDINATED PUBLIC SERVICE CORPORATION
8 EXPENDITURE IF A PERSON ESTABLISHES AND MAINTAINS A FIREWALL THAT COMPLIES
9 WITH THIS SUBSECTION. A PERSON WHO RELIES ON A FIREWALL TO DISPROVE
10 COORDINATION BEARS THE BURDEN OF PROOF THAT THE FIREWALL WAS IN EXISTENCE
11 AND EFFECTIVE AT ALL RELEVANT TIMES. IF STRATEGIC NONPUBLIC INFORMATION
12 PASSES THROUGH A FIREWALL, ANY RESULTING EXPENDITURE IS DEEMED A
13 COORDINATED EXPENDITURE, WITHOUT REGARD TO THE EXISTENCE OF A FIREWALL, IF
14 THE EXPENDITURE WOULD OTHERWISE CONSTITUTE A COORDINATED EXPENDITURE AS
15 PRESCRIBED BY SUBSECTION B, PARAGRAPH 5 OF THIS SECTION. A PERSON
16 ESTABLISHING A FIREWALL THAT IS INTENDED TO DISPROVE COORDINATION MUST DO
17 ALL OF THE FOLLOWING:

18 1. KEEP SEPARATE THE SPECIFIC PERSONS WHO PROVIDE A SERVICE TO THE
19 PERSON RELATED TO THE EXPENDITURE FROM OTHER DISTINCT, SPECIFIC PERSONS
20 WHO HAVE ENGAGED OR WILL ENGAGE IN ANY ACTIVITY PRESCRIBED IN SUBSECTION
21 B, PARAGRAPH 5 OF THIS SECTION WITH THE CORPORATION COMMISSION CANDIDATE
22 THAT BENEFITS FROM THE PERSON'S EXPENDITURES.

23 2. FORBID EACH OWNER, EXECUTIVE, MANAGER AND SUPERVISOR OF THE
24 PERSON TO SIMULTANEOUSLY OVERSEE THE WORK OF PERSONS WHO ARE SEPARATED BY
25 A FIREWALL.

26 3. PROHIBIT THE FLOW OF STRATEGIC NONPUBLIC INFORMATION:

27 (a) BETWEEN THE PERSON AND THE CORPORATION COMMISSION CANDIDATE
28 SUPPORTED BY THE EXPENDITURES.

29 (b) BETWEEN THE SPECIFIC PERSONS WHO ARE BEING SEPARATED BY THE
30 FIREWALL.

31 4. PROVIDE FOR PHYSICAL AND TECHNOLOGICAL SEPARATIONS TO ENSURE
32 THAT STRATEGIC NONPUBLIC INFORMATION DOES NOT PASS BETWEEN THE PERSON AND
33 THE CORPORATION COMMISSION CANDIDATE SUPPORTED BY THE EXPENDITURE AND
34 BETWEEN THE SPECIFIC PERSONS WHO ARE BEING SEPARATED BY THE FIREWALL.

35 5. MEMORIALIZE BOTH THE GENERAL FIREWALL POLICY AND ANY SPECIFIC
36 FIREWALL ESTABLISHED PURSUANT TO THAT POLICY IN WRITING AND DISTRIBUTE IT
37 TO ALL RELEVANT PERSONNEL AND CONSULTANTS BEFORE ANY RELEVANT WORK IS
38 PERFORMED AND PROVIDE THE FIREWALL POLICY TO THE SECRETARY OF STATE ON
39 REQUEST.

40 6. COMPLY WITH THE FIREWALL POLICY.

41 E. FOR THE PURPOSES OF THIS SECTION:

42 1. "CORPORATION COMMISSION CANDIDATE" MEANS A PERSON WHO IS A
43 CANDIDATE FOR THE CORPORATION COMMISSION AT THE TIME OF AN EXPENDITURE,
44 WITHOUT REGARD TO WHETHER THE PERSON WAS A CANDIDATE FOR THE CORPORATION

1 COMMISSION AT THE TIME OF THE CONDUCT PRESCRIBED BY SUBSECTION A OR D OF
2 THIS SECTION, AND INCLUDES THE CORPORATION COMMISSION CANDIDATE COMMITTEE.

3 2. "COVERED EXPENDITURE" MEANS PAYMENT FOR ANY OF THE FOLLOWING:

4 (a) AN ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL THAT EITHER
5 EXPRESSLY ADVOCATES FOR THE NOMINATION OR ELECTION OF THE CORPORATION
6 COMMISSION CANDIDATE OR AGAINST THE NOMINATION OR ELECTION OF AN OPPONENT
7 OF THE CORPORATION COMMISSION CANDIDATE.

8 (b) AN ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL THAT PROMOTES OR
9 SUPPORTS THE CORPORATION COMMISSION CANDIDATE, OR ATTACKS OR OPPOSES AN
10 OPPONENT OF THE CORPORATION COMMISSION CANDIDATE, REGARDLESS OF WHETHER
11 THE ADVERTISEMENT EXPRESSLY ADVOCATES THE ELECTION OR DEFEAT OF A
12 CORPORATION COMMISSION CANDIDATE.

13 (c) ANY MATERIAL THAT REFERS TO A CLEARLY IDENTIFIED CORPORATION
14 COMMISSION CANDIDATE AT ANY TIME BEGINNING ONE HUNDRED TWENTY DAYS BEFORE
15 A PRIMARY ELECTION DATE THROUGH THE GENERAL ELECTION DATE AND THAT IS
16 DISSEMINATED TO AT LEAST FIVE HUNDRED INDIVIDUALS IN THIS STATE.

17 (d) RESEARCH, DESIGN OR PRODUCTION COSTS, DATA ANALYTICS, CREATING
18 OR PURCHASING MAILING OR SOCIAL MEDIA LISTS OR OTHER ACTIVITIES RELATED TO
19 EXPENDITURES PRESCRIBED IN SUBDIVISIONS (a), (b) AND (c) OF THIS
20 PARAGRAPH.