

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1237

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Subject to the requirements of article IV, part 1,
3 section 1, Constitution of Arizona, section 16-941, Arizona Revised Statutes,
4 is amended to read:

5 16-941. Limits on spending and contributions for political
6 campaigns

7 A. Notwithstanding any law to the contrary, a participating candidate:

8 1. Shall not accept any contributions, other than a limited number of
9 five-dollar qualifying contributions as specified in section 16-946 and early
10 contributions as specified in section 16-945, except in the emergency
11 situation specified in section 16-954, subsection ~~F~~ D.

12 2. Shall not make expenditures of more than a total of five hundred
13 dollars of the candidate's personal monies for a candidate for the
14 legislature or more than one thousand dollars for a candidate for statewide
15 office.

16 3. Shall not make expenditures in the primary election period in
17 excess of the adjusted primary election spending limit.

18 4. Shall not make expenditures in the general election period in
19 excess of the adjusted general election spending limit.

20 5. Shall comply with section 16-948 regarding campaign accounts and
21 section 16-953 regarding returning unused monies to the citizens clean
22 elections fund described in this article.

23 B. Notwithstanding any law to the contrary, a nonparticipating
24 candidate shall not accept contributions in excess of an amount that is
25 twenty per cent less than the limits specified in section 16-905, subsections
26 A through E, as adjusted by the secretary of state pursuant to section

1 16-905, subsection H. Any violation of this subsection shall be subject to
2 the civil penalties and procedures set forth in section 16-905, subsections J
3 through M and section 16-924.

4 C. Notwithstanding any law to the contrary, a candidate, whether
5 participating or nonparticipating:

6 1. If specified in a written agreement signed by the candidate and one
7 or more opposing candidates and filed with the citizens clean elections
8 commission, shall not make any expenditure in the primary or general election
9 period exceeding an agreed-upon amount lower than spending limits otherwise
10 applicable by statute.

11 2. Shall continue to be bound by all other applicable election and
12 campaign finance statutes and rules, with the exception of those provisions
13 in express or clear conflict with this article.

14 ~~D. Notwithstanding any law to the contrary, any person who makes~~
15 ~~independent expenditures related to a particular office cumulatively~~
16 ~~exceeding five hundred dollars in an election cycle, with the exception of~~
17 ~~any expenditure listed in section 16-920 and any independent expenditure by~~
18 ~~an organization arising from a communication directly to the organization's~~
19 ~~members, shareholders, employees, affiliated persons and subscribers, shall~~
20 ~~file reports with the secretary of state in accordance with section 16-958 so~~
21 ~~indicating, identifying the office and the candidate or group of candidates~~
22 ~~whose election or defeat is being advocated and stating whether the person is~~
23 ~~advocating election or advocating defeat.~~

24 Sec. 2. Subject to the requirements of article IV, part 1, section 1,
25 Constitution of Arizona, section 16-942, Arizona Revised Statutes, is amended
26 to read:

27 16-942. Civil penalties and forfeiture of office

28 A. The civil penalty for a violation of any contribution or
29 expenditure limit in section 16-941 by or on behalf of a participating
30 candidate shall be ten times the amount by which the expenditures or
31 contributions exceed the applicable limit.

32 B. In addition to any other penalties imposed by law, the civil
33 penalty for a violation by or on behalf of any PARTICIPATING candidate of any

1 reporting requirement imposed by this chapter shall be one hundred dollars
2 per day for candidates for the legislature and three hundred dollars per day
3 for candidates for statewide office. The penalty imposed by this subsection
4 shall be doubled if the amount not reported for a particular election cycle
5 exceeds ten percent of the adjusted primary or general election spending
6 limit. No penalty imposed pursuant to this subsection shall exceed twice the
7 amount of expenditures or contributions not reported. The PARTICIPATING
8 candidate and the PARTICIPATING candidate's campaign account shall be jointly
9 and severally responsible for any penalty imposed pursuant to this
10 subsection.

11 C. Any campaign finance report filed indicating a violation of section
12 16-941, subsections A or B or section 16-941, subsection C, paragraph 1
13 involving an amount in excess of ten percent of the sum of the adjusted
14 primary election spending limit and the adjusted general election spending
15 limit for a ~~particular~~ PARTICIPATING candidate shall result in
16 disqualification of a PARTICIPATING candidate or forfeiture of office.

17 D. Any participating candidate adjudged to have committed a knowing
18 violation of section 16-941, subsection A or subsection C, paragraph 1 shall
19 repay from the candidate's personal monies to the fund all monies expended
20 from the candidate's campaign account and shall turn over the candidate's
21 campaign account to the fund.

22 E. All civil penalties collected pursuant to this article shall be
23 deposited into the fund.

24 Sec. 3. Subject to the requirements of article IV, part 1, section 1,
25 Constitution of Arizona, section 16-943, Arizona Revised Statutes, is amended
26 to read:

27 16-943. Criminal violations

28 A. A PARTICIPATING candidate, or any other person acting on behalf of
29 a PARTICIPATING candidate, who knowingly violates section 16-941 is guilty of
30 a class 1 misdemeanor.

31 B. Any person who knowingly pays any thing of value or any
32 compensation for a qualifying contribution as ~~defined~~ PRESCRIBED in section
33 16-946 is guilty of a class 1 misdemeanor.

1 C. Any person who knowingly provides false or incomplete information
2 on a report filed under section 16-958 is guilty of a class 1 misdemeanor.

3 Sec. 4. Subject to the requirements of article IV, part 1, section 1,
4 Constitution of Arizona, section 16-956, Arizona Revised Statutes, is amended
5 to read:

6 16-956. Voter education and enforcement duties

7 A. The commission shall:

8 1. Develop a procedure for publishing a document or section of a
9 document having a space of predefined size for a message chosen by each
10 candidate. For the document that is delivered before the primary election,
11 the document shall contain the names of every candidate for every statewide
12 and legislative district office in that primary election without regard to
13 whether the candidate is a participating candidate or a nonparticipating
14 candidate. For the document that is delivered before the general election,
15 the document shall contain the names of every candidate for every statewide
16 and legislative district office in that general election without regard to
17 whether the candidate is a participating candidate or a nonparticipating
18 candidate. The commission shall deliver one copy of each document to every
19 household that contains a registered voter. For the document that is
20 delivered before the primary election, the delivery may be made over a period
21 of days but shall be sent in time to be delivered to households before the
22 earliest date for receipt by registered voters of any requested early ballots
23 for the primary election. The commission may deliver the second document
24 over a period of days but shall send the second document in order to be
25 delivered to households before the earliest date for receipt by registered
26 voters of any requested early ballots for the general election. The primary
27 election and general election documents published by the commission shall
28 comply with all of the following:

29 (a) For any candidate who does not submit a message pursuant to this
30 paragraph, the document shall include with the candidate's listing the words
31 "no statement submitted".

32 (b) The document shall have printed on its cover the words "citizens
33 clean elections commission voter education guide" and the words "primary

1 election" or "general election" and the applicable year. The document shall
2 also contain at or near the bottom of the document cover in type that is no
3 larger than one-half the size of the type used for "citizens clean elections
4 commission voter education guide" the words "paid for by the citizens clean
5 elections fund".

6 (c) In order to prevent voter confusion, the document shall be easily
7 distinguishable from the publicity pamphlet that is required to be produced
8 by the secretary of state pursuant to section 19-123.

9 2. Sponsor debates among candidates, in such manner as determined by
10 the commission. The commission shall require participating candidates to
11 attend and participate in debates and may specify by rule penalties for
12 nonparticipation. The commission shall invite and permit nonparticipating
13 candidates to participate in debates.

14 3. Prescribe forms for reports, statements, notices and other
15 documents required by this article. The commission shall not require a
16 PARTICIPATING candidate to use a reporting system other than the reporting
17 system jointly approved by the commission and the office of the secretary of
18 state.

19 4. Prepare and publish instructions setting forth methods of
20 bookkeeping and preservation of records to facilitate compliance with this
21 article and explaining the duties of persons and committees under this
22 article.

23 5. Produce a yearly report describing the commission's activities and
24 any recommendations for changes of law, administration or funding amounts and
25 accounting for monies in the fund.

26 6. Adopt rules to implement the reporting requirements of section
27 16-958, ~~subsections D and E.~~

28 7. Enforce this article AS TO PARTICIPATING CANDIDATES, ensure that
29 money from the fund is placed in PARTICIPATING candidate campaign accounts or
30 otherwise spent as specified in this article and not otherwise, monitor
31 reports filed pursuant to this chapter and financial records of PARTICIPATING
32 candidates as needed and ensure that money required by this article to be
33 paid to the fund is deposited in the fund. The commission shall not take

1 action on any external complaint AGAINST A PARTICIPATING CANDIDATE that is
2 filed more than ninety days after the postelection report is filed or ninety
3 days after the completion of the canvass of the election to which the
4 complaint relates, whichever is later.

5 B. The commission may subpoena witnesses, compel their attendance and
6 testimony, administer oaths and affirmations, take evidence and require by
7 subpoena the production of any books, papers, records or other items material
8 to the performance of the commission's duties or the exercise of its powers
9 WITH RESPECT TO PARTICIPATING CANDIDATES.

10 C. The commission may adopt rules to carry out the purposes of this
11 article and to govern procedures of the commission. Commission ~~rule-making~~
12 RULEMAKING is exempt from title 41, chapter 6, article 3. The commission
13 shall propose and adopt rules in public meetings, with at least sixty days
14 allowed for interested parties to comment after the rules are proposed. The
15 commission shall also file a notice of exempt ~~rule-making~~ RULEMAKING and the
16 proposed rule in the format prescribed in section 41-1022 with the secretary
17 of state's office for publication in the Arizona administrative register.
18 After consideration of the comments received in the sixty day comment period,
19 the commission may adopt the rule in an open meeting. Any rules given final
20 approval in an open meeting shall be filed in the format prescribed in
21 section 41-1022 with the secretary of state's office for publication in the
22 Arizona administrative register. Any rules adopted by the commission shall
23 only be applied prospectively from the date the rule was adopted.

24 D. Rules adopted by the commission are not effective until January 1
25 in the year following the adoption of the rule, except that rules adopted by
26 unanimous vote of the commission may be made immediately effective and
27 enforceable.

28 E. If, in the view of the commission, the action of a particular
29 candidate or committee requires immediate change to a commission rule, a
30 unanimous vote of the commission is required. Any rule change made pursuant
31 to this subsection that is enacted with less than a unanimous vote takes
32 effect for the next election cycle.

1 F. Based on the results of the elections in any quadrennial election
2 after 2002, and within six months after such election, the commission may
3 adopt rules changing the number of qualifying contributions required for any
4 office from those listed in section 16-950, subsection D, by no more than
5 twenty ~~per-cent~~ PERCENT of the number applicable for the preceding election.

6 Sec. 5. Subject to the requirements of article IV, part 1, section 1,
7 Constitution of Arizona, section 16-957, Arizona Revised Statutes, is amended
8 to read:

9 16-957. Enforcement procedure

10 A. If the commission finds that there is reason to believe that a
11 ~~person~~ PARTICIPATING CANDIDATE OR A PERSON AFFILIATED WITH A PARTICIPATING
12 CANDIDATE has violated any provision of this article, the commission shall
13 serve on that person an order stating with reasonable particularity the
14 nature of the violation and requiring compliance within fourteen days.
15 During that period, the alleged violator may provide any explanation to the
16 commission, comply with the order, or enter into a public administrative
17 settlement with the commission.

18 B. ~~Upon~~ ON expiration of the fourteen days, if the commission finds
19 that the alleged violator remains out of compliance, the commission shall
20 make a public finding to that effect and issue an order assessing a civil
21 penalty in accordance with section 16-942, unless the commission publishes
22 findings of fact and conclusions of law expressing good cause for reducing or
23 excusing the penalty. The violator has fourteen days from the date of
24 issuance of the order assessing the penalty to appeal to the superior court
25 as provided in title 12, chapter 7, article 6.

26 C. Any candidate in a particular election contest who believes that
27 any opposing PARTICIPATING candidate has violated this article for that
28 election may file a complaint with the commission requesting that action be
29 taken pursuant to this section. If the commission fails to make a finding
30 under subsection A of this section within thirty days after the filing of
31 such a complaint, the candidate may bring a civil action in the superior
32 court to impose the civil penalties prescribed in this section.

1 Sec. 6. Subject to the requirements of article IV, part 1, section 1,
2 Constitution of Arizona, section 16-958, Arizona Revised Statutes, is amended
3 to read:

4 16-958. Manner of filing reports

5 ~~A. Any person who has previously reached the dollar amount specified~~
6 ~~in section 16-941, subsection D for filing an original report shall file a~~
7 ~~supplemental report each time previously unreported independent expenditures~~
8 ~~specified by that subsection exceeds one thousand dollars. Such reports~~
9 ~~shall be filed at the times specified in subsection B of this section and~~
10 ~~shall identify the dollar amount being reported, the candidate and the date,~~
11 ~~and no other detail is required in reports made pursuant to this section.~~

12 ~~B. Any person who must file an original report pursuant to section~~
13 ~~16-941, subsection D or who must file a supplemental report for previously~~
14 ~~unreported amounts pursuant to subsection A of this section shall file as~~
15 ~~follows:~~

16 ~~1. Before the beginning of the primary election period, the person~~
17 ~~shall file a report on the first of each month, unless the person has not~~
18 ~~reached the dollar amount for filing an original or supplemental report on~~
19 ~~that date.~~

20 ~~2. Thereafter, except as stated in paragraph 3 of this subsection, the~~
21 ~~person shall file a report on any Tuesday by which the person has reached the~~
22 ~~dollar amount for filing an original or supplemental report.~~

23 ~~3. During the last two weeks before the primary election and the last~~
24 ~~two weeks before the general election, the person shall file a report within~~
25 ~~one business day of reaching the dollar amount for filing an original or~~
26 ~~supplemental report.~~

27 ~~6.~~ A. Any filing under this article on behalf of a PARTICIPATING
28 candidate may be made by the candidate's campaign committee. All
29 PARTICIPATING candidates shall deposit any check received by and intended for
30 the campaign and made payable to the candidate or the candidate's campaign
31 committee, and all cash received by and intended for the campaign, in the
32 candidate's campaign account ~~before the due date of the next report specified~~
33 ~~in subsection B of this section.~~ No PARTICIPATING candidate or person acting

1 on behalf of a PARTICIPATING candidate shall conspire with a donor to
2 postpone delivery of a donation to the campaign for the purpose of postponing
3 the reporting of the donation in any subsequent report.

4 ~~D. The secretary of state shall immediately notify the commission of~~
5 ~~the filing of each report under this section and deliver a copy of the report~~
6 ~~to the commission, and the commission shall promptly mail or otherwise~~
7 ~~deliver a copy of each report filed pursuant to this section to all~~
8 ~~participating candidates opposing the candidate identified in section 16-941,~~
9 ~~subsection D.~~

10 ~~E.~~ B. Any report filed pursuant to ~~this section or~~ section 16-916,
11 subsection A, paragraph 1 ~~or subsection B~~ shall be filed in electronic
12 format. The secretary of state shall distribute computer software to
13 political committees to accommodate such electronic filing.

14 ~~F.~~ C. During the primary election period and the general election
15 period, all PARTICIPATING candidates shall make available for public
16 inspection all bank accounts, campaign finance reports and financial records
17 relating to the candidate's campaign, either by immediate disclosure through
18 electronic means or at the candidate's campaign headquarters, in accordance
19 with rules adopted by the commission.

20 Sec. 7. Subject to the requirements of article IV, part 1, section 1,
21 Constitution of Arizona, section 16-959, Arizona Revised Statutes, is amended
22 to read:

23 16-959. Inflationary and other adjustments of dollar values

24 A. Every two years, the secretary of state shall modify the dollar
25 values specified in the following parts of this article, in the manner
26 specified by section 16-905, subsection H, to account for inflation:

- 27 1. Section 16-941, subsection A, paragraph 2. ~~or subsection D;~~
- 28 2. Section 16-942, subsection B. ~~;~~
- 29 3. Section 16-945, subsection A, paragraphs 1 and 2. ~~;~~
- 30 4. Section 16-948, subsection C. ~~;~~
- 31 5. Section 16-955, subsection G. ~~;~~ ~~and~~
- 32 6. Section 16-961, subsections G and H.

1 B. In addition, the secretary of state shall make a similar inflation
2 adjustment by modifying the dollar values in section 16-949, subsection A to
3 reflect cumulative inflation since the enactment of this article. In
4 addition, every two years, the secretary of state shall change the dollar
5 values in section 16-961, subsections G and H in proportion to the change in
6 the number of Arizona resident personal income tax returns filed during the
7 previous calendar year.

8 ~~B.~~ C. Based on the results of the elections in any quadrennial
9 election after 2002, and within six months after such election, the
10 commission may adopt rules in a public meeting reallocating funds available
11 to all candidates between the primary and general elections by selecting a
12 fraction for primary election spending limits that is between one-third and
13 one-half of the spending limits for the election as a whole. For each
14 office, the primary election spending limit shall be modified to be the sum
15 of the primary and general spending limits times the selected fraction, and
16 the general election spending limit shall be modified to be the same sum
17 times one less the selected fraction.

18 Sec. 8. Requirements for enactment; three-fourths vote

19 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
20 this act is effective only on the affirmative vote of at least three-fourths
21 of the members of each house of the legislature."

22 Amend title to conform

JUSTIN OLSON

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