

COMMITTEE ON APPROPRIATIONS

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
27 16-905, subsection H. Any violation of this subsection shall be subject to
28 the civil penalties and procedures set forth in section 16-905, subsections J
29 through M and section 16-924.

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

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

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

40 ~~D. Notwithstanding any law to the contrary, any person who makes~~
41 ~~independent expenditures related to a particular office cumulatively~~
42 ~~exceeding five hundred dollars in an election cycle, with the exception of~~
43 ~~any expenditure listed in section 16-920 and any independent expenditure by~~
44 ~~an organization arising from a communication directly to the organization's~~

~~members, shareholders, employees, affiliated persons and subscribers, shall file reports with the secretary of state in accordance with section 16-958 so indicating, identifying the office and the candidate or group of candidates whose election or defeat is being advocated and stating whether the person is advocating election or advocating defeat.~~

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

16-942. Civil penalties and forfeiture of office

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

B. In addition to any other penalties imposed by law, the civil penalty for a violation by or on behalf of any PARTICIPATING candidate of any reporting requirement imposed by this chapter shall be one hundred dollars per day for candidates for the legislature and three hundred dollars per day for candidates for statewide office. The penalty imposed by this subsection shall be doubled if the amount not reported for a particular election cycle exceeds ten percent of the adjusted primary or general election spending limit. No penalty imposed pursuant to this subsection shall exceed twice the amount of expenditures or contributions not reported. The PARTICIPATING candidate and the PARTICIPATING candidate's campaign account shall be jointly and severally responsible for any penalty imposed pursuant to this subsection.

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

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

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

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

16-943. Criminal violations

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

B. Any person who knowingly pays any thing of value or any compensation for a qualifying contribution as defined PRESCRIBED in section 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
34 election" or "general election" and the applicable year. The document shall
35 also contain at or near the bottom of the document cover in type that is no
36 larger than one-half the size of the type used for "citizens clean elections
37 commission voter education guide" the words "paid for by the citizens clean
38 elections fund".

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

42 2. Sponsor debates among candidates, in such manner as determined by
43 the commission. The commission shall require participating candidates to
44 attend and participate in debates and may specify by rule penalties for
45 nonparticipation. The commission shall invite and permit nonparticipating
46 candidates to participate in debates.

47 3. Prescribe forms for reports, statements, notices and other
48 documents required by this article. The commission shall not require a

1 PARTICIPATING candidate to use a reporting system other than the reporting
2 system jointly approved by the commission and the office of the secretary of
3 state.

4 4. Prepare and publish instructions setting forth methods of
5 bookkeeping and preservation of records to facilitate compliance with this
6 article and explaining the duties of persons and committees under this
7 article.

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

11 6. Adopt rules to implement the reporting requirements of section
12 16-958, ~~subsections D and E.~~

13 7. Enforce this article AS TO PARTICIPATING CANDIDATES, ensure that
14 money from the fund is placed in PARTICIPATING candidate campaign accounts or
15 otherwise spent as specified in this article and not otherwise, monitor
16 reports filed pursuant to this chapter and financial records of PARTICIPATING
17 candidates as needed and ensure that money required by this article to be
18 paid to the fund is deposited in the fund. The commission shall not take
19 action on any external complaint AGAINST A PARTICIPATING CANDIDATE that is
20 filed more than ninety days after the postelection report is filed or ninety
21 days after the completion of the canvass of the election to which the
22 complaint relates, whichever is later.

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

28 C. The commission may adopt rules to carry out the purposes of this
29 article and to govern procedures of the commission. Commission ~~rule-making~~
30 RULEMAKING is exempt from title 41, chapter 6, article 3. The commission
31 shall propose and adopt rules in public meetings, with at least sixty days
32 allowed for interested parties to comment after the rules are proposed. The
33 commission shall also file a notice of exempt ~~rule-making~~ RULEMAKING and the
34 proposed rule in the format prescribed in section 41-1022 with the secretary
35 of state's office for publication in the Arizona administrative register.
36 After consideration of the comments received in the sixty day comment period,
37 the commission may adopt the rule in an open meeting. Any rules given final
38 approval in an open meeting shall be filed in the format prescribed in
39 section 41-1022 with the secretary of state's office for publication in the
40 Arizona administrative register. Any rules adopted by the commission shall
41 only be applied prospectively from the date the rule was adopted.

42 D. Rules adopted by the commission are not effective until January 1
43 in the year following the adoption of the rule, except that rules adopted by
44 unanimous vote of the commission may be made immediately effective and
45 enforceable.

46 E. If, in the view of the commission, the action of a particular
47 candidate or committee requires immediate change to a commission rule, a
48 unanimous vote of the commission is required. Any rule change made pursuant

1 to this subsection that is enacted with less than a unanimous vote takes
2 effect for the next election cycle.

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

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

11 16-957. Enforcement procedure

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

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

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

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

38 16-958. Manner of filing reports

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

46 ~~B. Any person who must file an original report pursuant to section~~
47 ~~16-941, subsection D or who must file a supplemental report for previously~~

1 ~~unreported amounts pursuant to subsection A of this section shall file as~~
2 ~~follows:~~

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

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

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

14 ~~C.~~ A. Any filing under this article on behalf of a PARTICIPATING
15 candidate may be made by the candidate's campaign committee. All
16 PARTICIPATING candidates shall deposit any check received by and intended for
17 the campaign and made payable to the candidate or the candidate's campaign
18 committee, and all cash received by and intended for the campaign, in the
19 candidate's campaign account ~~before the due date of the next report specified~~
20 ~~in subsection B of this section.~~ No PARTICIPATING candidate or person acting
21 on behalf of a PARTICIPATING candidate shall conspire with a donor to
22 postpone delivery of a donation to the campaign for the purpose of postponing
23 the reporting of the donation in any subsequent report.

24 ~~D. The secretary of state shall immediately notify the commission of~~
25 ~~the filing of each report under this section and deliver a copy of the report~~
26 ~~to the commission, and the commission shall promptly mail or otherwise~~
27 ~~deliver a copy of each report filed pursuant to this section to all~~
28 ~~participating candidates opposing the candidate identified in section 16-941,~~
29 ~~subsection D.~~

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

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

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

43 16-959. Inflationary and other adjustments of dollar values

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

- 47 1. Section 16-941, subsection A, paragraph 2. ~~or subsection D;~~
- 48 2. Section 16-942, subsection B. ~~;~~

- 1 3. Section 16-945, subsection A, paragraphs 1 and 2. ~~;~~
- 2 4. Section 16-948, subsection C. ~~;~~
- 3 5. Section 16-955, subsection G. ~~;~~ ~~and~~
- 4 6. Section 16-961, subsections G and H.

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

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

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

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

26 Amend title to conform

and, as so amended, it do pass

JUSTIN OLSON
Chairman

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