

REFERENCE TITLE: campaign finance limits; recall election

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1262

Introduced by
Senator Reagan

AN ACT

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. "Agent" means, with respect to any person other than a candidate,
7 any person who has oral or written authority, either express or implied, to
8 make or authorize the making of expenditures as defined in this section on
9 behalf of a candidate, any person who has been authorized by the treasurer of
10 a political committee to make or authorize the making of expenditures or a
11 political consultant for a candidate or political committee.

12 2. "Candidate" means an individual who receives or gives consent for
13 receipt of a contribution for his nomination for or election to any office in
14 this state other than a federal office.

15 3. "Candidate's campaign committee" means a political committee
16 designated and authorized by a candidate.

17 4. "Clearly identified candidate" means that the name, a photograph or
18 a drawing of the candidate appears or the identity of the candidate is
19 otherwise apparent by unambiguous reference.

20 5. "Contribution" means any gift, subscription, loan, advance or
21 deposit of money or anything of value made for the purpose of influencing an
22 election including supporting or opposing the recall of a public officer, ~~or~~
23 supporting or opposing the circulation of a petition for a ballot measure,
24 question or proposition or **SUPPORTING OR OPPOSING THE CIRCULATION OF A**
25 **PETITION FOR** the recall of a public officer and:

26 (a) Includes all of the following:

27 (i) A contribution made to retire campaign debt.

28 (ii) Money or the fair market value of anything directly or indirectly
29 given or loaned to an elected official for the purpose of defraying the
30 expense of communications with constituents, regardless of whether the
31 elected official has declared his candidacy.

32 (iii) The entire amount paid to a political committee to attend a
33 fund-raising or other political event and the entire amount paid to a
34 political committee as the purchase price for a fund-raising meal or item,
35 except that no contribution results if the actual cost of the meal or
36 fund-raising item, based on the amount charged to the committee by the
37 vendor, constitutes the entire amount paid by the purchaser for the meal or
38 item, the meal or item is for the purchaser's personal use and not for resale
39 and the actual cost is the entire amount paid by the purchaser in connection
40 with the event. This exception does not apply to auction items.

41 (iv) Unless specifically exempted, the provision of goods or services
42 without charge or at a charge that is less than the usual and normal charge
43 for such goods and services.

44 (b) Does not include any of the following:

1 (i) The value of services provided without compensation by any
2 individual who volunteers on behalf of a candidate, a candidate's campaign
3 committee or any other political committee.

4 (ii) Money or the value of anything directly or indirectly provided to
5 defray the expense of an elected official meeting with constituents if the
6 elected official is engaged in the performance of the duties of his office or
7 provided by the state or a political subdivision to an elected official for
8 communication with constituents if the elected official is engaged in the
9 performance of the duties of his office.

10 (iii) The use of real or personal property, including a church or
11 community room used on a regular basis by members of a community for
12 noncommercial purposes, that is obtained by an individual in the course of
13 volunteering personal services to any candidate, candidate's committee or
14 political party, and the cost of invitations, food and beverages voluntarily
15 provided by an individual to any candidate, candidate's campaign committee or
16 political party in rendering voluntary personal services on the individual's
17 residential premises or in the church or community room for candidate-related
18 or political party-related activities, to the extent that the cumulative
19 value of the invitations, food and beverages provided by the individual on
20 behalf of any single candidate does not exceed one hundred dollars with
21 respect to any single election.

22 (iv) Any unreimbursed payment for personal travel expenses made by an
23 individual who on his own behalf volunteers his personal services to a
24 candidate.

25 (v) The payment by a political party for party operating expenses,
26 party staff and personnel, party newsletters and reports, voter registration
27 and efforts to increase voter turnout, party organization building and
28 maintenance and printing and postage expenses for slate cards, sample
29 ballots, other written materials that substantially promote three or more
30 nominees of the party for public office and other election activities not
31 related to a specific candidate, except that this item does not apply to
32 costs incurred with respect to a display of the listing of candidates made on
33 telecommunications systems or in newspapers, magazines or similar types of
34 general circulation advertising.

35 (vi) Independent expenditures.

36 (vii) Monies loaned by a state bank, a federally chartered depository
37 institution or a depository institution the deposits or accounts of which are
38 insured by the federal deposit insurance corporation or the national credit
39 union administration, other than an overdraft made with respect to a checking
40 or savings account, that is made in accordance with applicable law and in the
41 ordinary course of business. In order for this exemption to apply, this loan
42 shall be deemed a loan by each endorser or guarantor, in that proportion of
43 the unpaid balance that each endorser or guarantor bears to the total number
44 of endorsers or guarantors, the loan shall be made on a basis that assures
45 repayment, evidenced by a written instrument, shall be subject to a due date

1 or amortization schedule and shall bear the usual and customary interest rate
2 of the lending institution.

3 (viii) A gift, subscription, loan, advance or deposit of money or
4 anything of value to a national or a state committee of a political party
5 specifically designated to defray any cost for the construction or purchase
6 of an office facility not acquired for the purpose of influencing the
7 election of a candidate in any particular election.

8 (ix) Legal or accounting services rendered to or on behalf of a
9 political committee or a candidate, if the only person paying for the
10 services is the regular employer of the individual rendering the services and
11 if the services are solely for the purpose of compliance with this title.

12 (x) The payment by a political party of the costs of campaign
13 materials, including pins, bumper stickers, handbills, brochures, posters,
14 party tabloids and yard signs, used by the party in connection with volunteer
15 activities on behalf of any nominee of the party or the payment by a state or
16 local committee of a political party of the costs of voter registration and
17 get-out-the-vote activities conducted by the committee if the payments are
18 not for the costs of campaign materials or activities used in connection with
19 any telecommunication, newspaper, magazine, billboard, direct mail or similar
20 type of general public communication or political advertising.

21 (xi) Transfers between political committees to distribute monies
22 raised through a joint fund-raising effort in the same proportion to each
23 committee's share of the fund-raising expenses and payments from one
24 political committee to another in reimbursement of a committee's
25 proportionate share of its expenses in connection with a joint fund-raising
26 effort.

27 (xii) An extension of credit for goods and services made in the
28 ordinary course of the creditor's business if the terms are substantially
29 similar to extensions of credit to nonpolitical debtors that are of similar
30 risk and size of obligation and if the creditor makes a commercially
31 reasonable attempt to collect the debt, except that any extension of credit
32 under this item made for the purpose of influencing an election that remains
33 unsatisfied by the candidate after six months, notwithstanding good faith
34 collection efforts by the creditor, shall be deemed receipt of a contribution
35 by the candidate but not a contribution by the creditor.

36 (xiii) Interest or dividends earned by a political committee on any
37 bank accounts, deposits or other investments of the political committee.

38 6. "Earmarked" means a designation, instruction or encumbrance that
39 results in all or any part of a contribution or expenditure being made to, or
40 expended on behalf of, a clearly identified candidate or a candidate's
41 campaign committee.

42 7. "Election" means any election for any initiative, referendum or
43 other measure or proposition or a primary, general, recall, special or runoff
44 election for any office in this state other than the office of precinct
45 committeeman and other than a federal office AND, FOR A RECALL ELECTION,

1 INCLUDES SUPPORTING OR OPPOSING THE CIRCULATION OF A RECALL PETITION BEFORE A
2 RECALL ELECTION IS CALLED. For THE purposes of sections 16-903 and 16-905,
3 the general election includes the primary election.

4 8. "Expenditures" includes any purchase, payment, distribution, loan,
5 advance, deposit or gift of money or anything of value made by a person for
6 the purpose of influencing an election in this state including supporting or
7 opposing the recall of a public officer or supporting or opposing the
8 circulation of a petition for a ballot measure, question or proposition or
9 the recall of a public officer and a contract, promise or agreement to make
10 an expenditure resulting in an extension of credit and the value of any
11 in-kind contribution received. Expenditure does not include any of the
12 following:

13 (a) A news story, commentary or editorial distributed through the
14 facilities of any telecommunications system, newspaper, magazine or other
15 periodical publication, unless the facilities are owned or controlled by a
16 political committee, political party or candidate.

17 (b) Nonpartisan activity designed to encourage individuals to vote or
18 to register to vote.

19 (c) The payment by a political party of the costs of preparation,
20 display, mailing or other distribution incurred by the party with respect to
21 any printed slate card, sample ballot or other printed listing of three or
22 more candidates for any public office for which an election is held, except
23 that this subdivision does not apply to costs incurred by the party with
24 respect to a display of any listing of candidates made on any
25 telecommunications system or in newspapers, magazines or similar types of
26 general public political advertising.

27 (d) The payment by a political party of the costs of campaign
28 materials, including pins, bumper stickers, handbills, brochures, posters,
29 party tabloids and yard signs, used by the party in connection with volunteer
30 activities on behalf of any nominee of the party or the payment by a state or
31 local committee of a political party of the costs of voter registration and
32 get-out-the-vote activities conducted by the committee if the payments are
33 not for the costs of campaign materials or activities used in connection with
34 any telecommunications system, newspaper, magazine, billboard, direct mail or
35 similar type of general public communication or political advertising.

36 (e) Any deposit or other payment filed with the secretary of state or
37 any other similar officer to pay any portion of the cost of printing an
38 argument in a publicity pamphlet advocating or opposing a ballot measure.

39 9. "Exploratory committee" means a political committee that is formed
40 for the purpose of determining whether an individual will become a candidate
41 and that receives contributions or makes expenditures of more than five
42 hundred dollars in connection with that purpose.

43 10. "Family contribution" means any contribution that is provided to a
44 candidate's campaign committee by a parent, grandparent, spouse, child or
45 sibling of the candidate or a parent or spouse of any of those persons.

1 11. "Filing officer" means the office that is designated by section
2 16-916 to conduct the duties prescribed by this chapter.

3 12. "Identification" means:

4 (a) For an individual, his name and mailing address, his occupation
5 and the name of his employer.

6 (b) For any other person, including a political committee, the full
7 name and mailing address of the person. For a political committee,
8 identification includes the identification number issued on the filing of a
9 statement of organization pursuant to section 16-902.01.

10 13. "Incomplete contribution" means any contribution received by a
11 political committee for which the contributor's mailing address, occupation,
12 employer or identification number has not been obtained and is not in the
13 possession of the political committee.

14 14. "Independent expenditure" means an expenditure by a person or
15 political committee, other than a candidate's campaign committee, that
16 expressly advocates the election or defeat of a clearly identified candidate,
17 that is made without cooperation or consultation with any candidate or
18 committee or agent of the candidate and that is not made in concert with or
19 at the request or suggestion of a candidate, or any committee or agent of the
20 candidate. Independent expenditure includes an expenditure that is subject
21 to the requirements of section 16-917, which requires a copy of campaign
22 literature or advertisement to be sent to a candidate named or otherwise
23 referred to in the literature or advertisement. An expenditure is not an
24 independent expenditure if any of the following applies:

25 (a) Any officer, member, employee or agent of the political committee
26 making the expenditure is also an officer, member, employee or agent of the
27 committee of the candidate whose election or whose opponent's defeat is being
28 advocated by the expenditure or an agent of the candidate whose election or
29 whose opponent's defeat is being advocated by the expenditure.

30 (b) There is any arrangement, coordination or direction with respect
31 to the expenditure between the candidate or the candidate's agent and the
32 person making the expenditure, including any officer, director, employee or
33 agent of that person.

34 (c) In the same election the person making the expenditure, including
35 any officer, director, employee or agent of that person, is or has been:

36 (i) Authorized to raise or expend monies on behalf of the candidate or
37 the candidate's authorized committees.

38 (ii) Receiving any form of compensation or reimbursement from the
39 candidate, the candidate's committees or the candidate's agent.

40 (d) The expenditure is based on information about the candidate's
41 plans, projects or needs, or those of his campaign committee, provided to the
42 expending person by the candidate or by the candidate's agents or any
43 officer, member or employee of the candidate's campaign committee with a view
44 toward having the expenditure made.

1 15. "In-kind contribution" means a contribution of goods or services or
2 anything of value and not a monetary contribution.

3 16. "Itemized" means that each contribution received or expenditure
4 made is set forth separately.

5 17. "Literature or advertisement" means information or materials that
6 are mailed, distributed or placed in some medium of communication for the
7 purpose of influencing the outcome of an election.

8 18. "Personal monies" means any of the following:

9 (a) Assets to which the candidate has a legal right of access or
10 control at the time he becomes a candidate and with respect to which the
11 candidate has either legal title or an equitable interest.

12 (b) Salary and other earned income from bona fide employment of the
13 candidate, dividends and proceeds from the sale of the stocks or investments
14 of the candidate, bequests to the candidate, income to the candidate from
15 trusts established before candidacy, income to the candidate from trusts
16 established by bequest after candidacy of which the candidate is a
17 beneficiary, gifts to the candidate of a personal nature that have been
18 customarily received before the candidacy and proceeds received by the
19 candidate from lotteries and other legal games of chance.

20 (c) The proceeds of loans obtained by the candidate that are not
21 contributions and for which the collateral or security is covered by
22 subdivision (a) or (b) of this paragraph.

23 (d) Family contributions.

24 19. "Political committee" means a candidate or any association or
25 combination of persons that is organized, conducted or combined for the
26 purpose of influencing the result of any election or to determine whether an
27 individual will become a candidate for election in this state or in any
28 county, city, town, district or precinct in this state, that engages in
29 political activity in behalf of or against a candidate for election or
30 retention or in support of or opposition to an initiative, referendum or
31 recall or any other measure or proposition and that applies for a serial
32 number and circulates petitions and, in the case of a candidate for public
33 office except those exempt pursuant to section 16-903, that receives
34 contributions or makes expenditures of more than two hundred fifty dollars in
35 connection therewith, notwithstanding that the association or combination of
36 persons may be part of a larger association, combination of persons or
37 sponsoring organization not primarily organized, conducted or combined for
38 the purpose of influencing the result of any election in this state or in any
39 county, city, town or precinct in this state. Political committee includes
40 the following types of committees:

41 (a) A candidate's campaign committee.

42 (b) A separate, segregated fund established by a corporation or labor
43 organization pursuant to section 16-920, subsection A, paragraph 3.

1 (c) A committee acting in support of or opposition to the
2 qualification, passage or defeat of a ballot measure, question or
3 proposition.

4 (d) A committee organized to circulate or oppose a recall petition or
5 to influence the result of a recall election.

6 (e) A political party.

7 (f) A committee organized for the purpose of making independent
8 expenditures.

9 (g) A committee organized in support of or opposition to one or more
10 candidates.

11 (h) A political organization.

12 (i) An exploratory committee.

13 20. "Political organization" means an organization that is formally
14 affiliated with and recognized by a political party including a district
15 committee organized pursuant to section 16-823.

16 21. "Political party" means the state committee as prescribed by
17 section 16-825 or the county committee as prescribed by section 16-821 of an
18 organization that meets the requirements for recognition as a political party
19 pursuant to section 16-801 or section 16-804, subsection A.

20 22. "Sponsoring organization" means any organization that establishes,
21 administers or contributes financial support to the administration of, or
22 that has common or overlapping membership or officers with, a political
23 committee other than a candidate's campaign committee.

24 23. "Standing political committee" means a political committee that
25 satisfies all of the following:

26 (a) Is active in more than one reporting jurisdiction in this state
27 for more than one year.

28 (b) Files a statement of organization as prescribed by section
29 16-902.01, subsection E.

30 (c) Is any of the following as defined by paragraph 19 of this
31 section:

32 (i) A separate, segregated fund.

33 (ii) A political party.

34 (iii) A committee organized for the purpose of making independent
35 expenditures.

36 (iv) A political organization.

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

40 25. "Surplus monies" means those monies of a political committee
41 remaining after all of the committee's expenditures have been made and its
42 debts have been extinguished.

1 Sec. 2. Section 16-905, Arizona Revised Statutes, is amended to read:
2 16-905. Contribution limitations; civil penalty; complaint

3 A. For an election other than for a statewide office, a contributor
4 shall not give and an exploratory committee, a candidate or a candidate's
5 campaign committee shall not accept contributions of more than:

6 1. For an election for a legislative office, four hundred eighty-eight
7 dollars from an individual.

8 2. For an election other than for a legislative office, three hundred
9 ninety dollars from an individual.

10 3. For an election for a legislative office, four hundred eighty-eight
11 dollars from a single political committee, excluding a political party, not
12 certified under subsection G of this section to make contributions at the
13 higher limits prescribed by paragraph 5 of this subsection and subsection B,
14 paragraph 3 of this section.

15 4. For an election other than for a legislative office, three hundred
16 ninety dollars from a single political committee, excluding a political
17 party, not certified under subsection G of this section to make contributions
18 at the higher limits prescribed by subsection B, paragraph 3 of this section.

19 5. Two thousand dollars from a single political committee, excluding a
20 political party, certified pursuant to subsection G of this section.

21 B. For an election for a statewide office, a contributor shall not
22 give and an exploratory committee, a candidate or a candidate's committee
23 shall not accept contributions of more than:

24 1. One thousand ten dollars from an individual.

25 2. One thousand ten dollars from a single political committee,
26 excluding a political party, not certified under subsection G of this section
27 to make contributions at the higher limits prescribed by subsection A,
28 paragraph 5 of this section and paragraph 3 of this subsection.

29 3. Five thousand ten dollars from a single political committee
30 excluding political parties certified pursuant to subsection G of this
31 section.

32 C. A candidate shall not accept contributions from all political
33 committees, excluding political parties, combined totaling more than:

34 1. For an election for a legislative office, sixteen thousand one
35 hundred fifty dollars.

36 2. For an office other than a legislative office or a statewide
37 office, ten thousand twenty dollars.

38 3. For a statewide office, one hundred thousand one hundred ten
39 dollars.

40 D. A nominee of a political party shall not accept contributions from
41 all political parties or political organizations combined totaling more than
42 ten thousand twenty dollars for an election for an office other than a
43 statewide office, and one hundred thousand one hundred ten dollars for an
44 election for a statewide office.

1 E. An individual shall not make contributions totaling more than five
2 thousand six hundred ten dollars in a calendar year to state and local
3 candidates and political committees contributing to state or local
4 candidates. Contributions to political parties and contributions to
5 independent expenditure committees are exempt from the limitations of this
6 subsection.

7 F. A candidate's campaign committee or an individual's exploratory
8 committee shall not make a loan and shall not transfer or contribute money to
9 any other campaign or exploratory committee that is designated pursuant to
10 this chapter or 2 United States Code section 431 except as follows:

11 1. An exploratory committee may transfer monies to a subsequent
12 candidate's campaign committee of the individual designating the exploratory
13 committee, subject to the limits of subsection B of this section.

14 2. A candidate's campaign committee may transfer or contribute monies
15 to another campaign committee designated by the same candidate as follows:

16 (a) Subject to the contribution limits of this section, transfer or
17 contribute monies from one committee to another if both committees have been
18 designated for an election in the same year. THIS SUBDIVISION DOES NOT APPLY
19 IF ONE OF THE COMMITTEES IS DESIGNATED FOR A RECALL ELECTION, AND MONIES MAY
20 NOT BE TRANSFERRED BETWEEN COMMITTEES.

21 (b) Without application of the contribution limits of this section,
22 transfer or contribute monies from one committee to another designated for an
23 election in a subsequent year. THIS SUBDIVISION DOES NOT APPLY IF ONE OF THE
24 COMMITTEES IS DESIGNATED FOR A RECALL ELECTION, AND MONIES MAY NOT BE
25 TRANSFERRED BETWEEN COMMITTEES.

26 G. Only political committees that received monies from five hundred or
27 more individuals in amounts of ten dollars or more in the one year period
28 immediately before application to the secretary of state for qualification as
29 a political committee pursuant to this section may make contributions to
30 candidates under subsection A, paragraph 5 of this section and subsection B,
31 paragraph 3 of this section. The secretary of state shall obtain information
32 necessary to make the determination that a committee meets the requirements
33 of this subsection and shall provide written certification of the fact to the
34 committee. A political committee certification is valid for two years. A
35 candidate's campaign committee shall not accept a contribution pursuant to
36 this subsection unless it is accompanied by a copy of the certification. All
37 political committees that do not meet the requirements of this subsection are
38 subject to the individual campaign contribution limits of subsection A,
39 paragraphs 1 and 2 of this section and subsection B, paragraph 1 of this
40 section.

41 H. The secretary of state biennially shall adjust to the nearest ten
42 dollars the amounts in subsections A through E of this section by the
43 percentage change in the consumer price index and publish the new amounts for
44 distribution to election officials, candidates and campaign committees. For
45 the purposes of this subsection, "consumer price index" means the consumer

1 price index for all urban consumers, United States city average, that is
2 published by the United States department of labor, bureau of labor
3 statistics.

4 I. The following specific limitations and procedures apply:

5 1. The limits of subsections A through E of this section apply to each
6 election for any office or offices ~~which~~ THAT the candidate seeks.

7 2. The limits of subsections A, B and C of this section apply to the
8 total contributions from all separate segregated funds established, as
9 provided in section 16-920, by a corporation, labor organization, trade
10 association, cooperative or corporation without capital stock.

11 3. A contribution by an unemancipated minor child shall be treated as
12 a contribution by the child's custodial parent or parents for determining
13 compliance with subsection A, paragraphs 1 and 2, subsection B, paragraph 1
14 and subsection E of this section.

15 4. A contribution by an individual or a single political committee to
16 two or more candidates in connection with a joint fund-raising effort shall
17 be divided among the candidates in direct proportion to each candidate
18 campaign committee's share of the expenses for the fund-raising effort.

19 5. A candidate shall sign and file with the candidate's nomination
20 paper a statement that the candidate has read all applicable laws relating to
21 campaign financing and reporting.

22 6. An individual or political committee shall not use economic
23 influence to induce members of an organization to make contributions to a
24 candidate, collect contributions from members of an organization for
25 transmittal to a candidate, make payments to candidates for public
26 appearances or services ~~which~~ THAT are ordinarily uncompensated or use any
27 similar device to circumvent any of the limitations of this section.

28 7. FOR A RECALL ELECTION, INCLUDING THE PERIOD DURING WHICH A RECALL
29 PETITION IS CIRCULATED, THE LIMITS OF SUBSECTIONS A, B, C AND D OF THIS
30 SECTION APPLY TO CONTRIBUTIONS MADE AND RECEIVED FOR THE RECALL ELECTION, AND
31 CONSTITUTE A SEPARATE ELECTION WITH SEPARATE LIMITS THAN ANY NON-RECALL
32 ELECTION CAMPAIGN OF THE OFFICER WHO IS SUBJECT TO THE RECALL.

33 J. A person who violates this section is subject to a civil penalty
34 imposed as prescribed in section 16-924 of three times the amount of money
35 that has been received, expended or promised in violation of this section or
36 three times the value in money for an equivalent of money or other things of
37 value that have been received, expended or promised in violation of this
38 section.

39 K. Any qualified elector may file a sworn complaint with the attorney
40 general or the county attorney of the county in which a violation of this
41 section is believed to have occurred, and the attorney general or the county
42 attorney shall investigate the complaint for possible action.

43 L. If the filing officer, attorney general or county attorney fails to
44 institute an action within forty-five working days after receiving a
45 complaint under subsection K of this section, the individual filing the

1 complaint may bring a civil action in the individual's own name and at the
2 individual's own expense, with the same effect as if brought by the filing
3 officer, attorney general or county attorney. The individual shall execute a
4 bond payable to the defendant if the individual fails to prosecute the action
5 successfully. The court shall award to the prevailing party costs and
6 reasonable attorney fees.

7 M. If a provision of this section or its application to any person or
8 circumstance is held invalid, the invalidity does not affect other provisions
9 or applications of the section ~~which~~ THAT can be given effect without the
10 invalid provision or application, and to this end the provisions of this
11 section are severable.

12 N. The use of a candidate's personal monies, or the use of personal
13 monies by an individual who designates an exploratory committee, is not
14 subject to the limitations of this section.