

REFERENCE TITLE: election and ethics; commission; duties

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1543

Introduced by
Senator Quezada

AN ACT

AMENDING TITLE 16, CHAPTER 6, ARTICLE 1.7, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-939; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3032.01; RELATING TO ELECTION-RELATED ETHICS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 16, chapter 6, article 1.7, Arizona Revised
3 Statutes, is amended by adding section 16-939, to read:

4 16-939. Arizona election and ethics commission; secretary of
5 state; campaign finance duties

6 BEGINNING IN 2023, THE ARIZONA ELECTION AND ETHICS COMMISSION
7 ESTABLISHED PURSUANT TO TITLE 41, CHAPTER 4, ARTICLE 8 SHALL SUCCEED TO
8 THE DUTIES OF THE SECRETARY OF STATE WITH RESPECT TO ACTING AS THE
9 INVESTIGATORY, COMPLIANCE AND ENFORCEMENT OFFICER FOR COMMITTEES
10 SUPPORTING OR OPPOSING THE RECALL OF A PUBLIC OFFICER ELECTED STATEWIDE OR
11 TO THE LEGISLATURE, SUPPORTING OR OPPOSING THE CIRCULATION OF PETITIONS
12 FOR BALLOT MEASURES, QUESTIONS AND PROPOSITIONS APPEARING ON A STATE
13 GENERAL ELECTION BALLOT OR RECALL OF PUBLIC OFFICIALS ELECTED STATEWIDE OR
14 TO THE LEGISLATURE OR SUPPORTING OR OPPOSING CANDIDATES FOR STATE OFFICES
15 AND MEMBERS OF THE LEGISLATURE AND FOR A STATEWIDE INITIATIVE OR
16 REFERENDUM OR ANY MEASURE OR PROPOSITION APPEARING ON A STATE GENERAL
17 ELECTION BALLOT.

18 Sec. 2. Title 41, chapter 4, Arizona Revised Statutes, is amended
19 by adding article 8, to read:

20 ARTICLE 8. ARIZONA ELECTION AND ETHICS COMMISSION

21 41-811. Arizona election and ethics commission; members;
22 terms; meetings; compensation

23 A. THE ARIZONA ELECTION AND ETHICS COMMISSION IS ESTABLISHED
24 CONSISTING OF SIX MEMBERS. THE GOVERNOR SHALL APPOINT ONE MEMBER AND THE
25 HIGHEST RANKING OFFICIAL HOLDING A STATEWIDE OFFICE WHO IS NOT A MEMBER OF
26 THE SAME POLITICAL PARTY AS THE GOVERNOR SHALL APPOINT THE NEXT MEMBER.
27 THEREAFTER, THE HIGHEST RANKING MEMBER OF THE MAJORITY PARTY IN THE HOUSE
28 OF REPRESENTATIVES SHALL APPOINT ONE MEMBER, FOLLOWED BY THE HIGHEST
29 RANKING MEMBER OF THE MINORITY PARTY IN THE HOUSE OF REPRESENTATIVES, WHO
30 SHALL APPOINT ONE MEMBER, FOLLOWED BY THE HIGHEST RANKING MEMBER OF THE
31 MAJORITY PARTY IN THE SENATE, WHO SHALL APPOINT ONE MEMBER, FOLLOWED BY
32 THE HIGHEST RANKING MEMBER OF THE MINORITY PARTY IN THE SENATE, WHO SHALL
33 APPOINT ONE MEMBER.

34 B. ANY VACANCY ON THE COMMISSION SHALL BE FILLED BY AN APPOINTMENT
35 BY THE THEN CURRENT HOLDER OF THE OFFICE DESIGNATED TO MAKE THE
36 APPOINTMENT.

37 C. DURING THE FIVE-YEAR PERIOD IMMEDIATELY BEFORE TAKING OFFICE AND
38 FOR THE DURATION OF THE MEMBER'S TERM OF OFFICE, A MEMBER MAY NOT SEEK OR
39 ACCEPT NOMINATION, ELECTION OR APPOINTMENT TO ANY ELECTED PUBLIC OFFICE OR
40 SERVE ON A COMMITTEE SUPPORTING OR OPPOSING ANY INITIATIVE, REFERENDUM OR
41 OTHER MEASURE TO BE SUBMITTED TO A VOTE OF THE PEOPLE AT THE TIME THE
42 MEMBER IS SERVING ON THE COMMISSION.

43 D. MEMBERS MAY NOT BE EMPLOYED BY THIS STATE.

44 E. MEMBERS SHALL SERVE FOUR-YEAR TERMS BEGINNING ON THE THIRD
45 MONDAY IN JANUARY.

1 F. THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIRPERSON OR ON
2 THE WRITTEN REQUEST OF A MAJORITY OF THE MEMBERS. APPROVAL BY AT LEAST
3 FOUR MEMBERS OF THE COMMISSION IS REQUIRED FOR THE COMMISSION TO ACT.

4 G. MEMBERS ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO
5 TITLE 38, CHAPTER 4, ARTICLE 2.

6 41-811.01. Commission powers and duties relating to campaign
7 finance and disclosure laws; civil penalty;
8 enforcement

9 A. THE ARIZONA ELECTION AND ETHICS COMMISSION SHALL:

10 1. APPOINT AN EXECUTIVE DIRECTOR.

11 2. ON REQUEST, ISSUE ADVISORY OPINIONS REGARDING CAMPAIGN FINANCE,
12 ETHICS AND DISCLOSURE LAWS TO CANDIDATES FOR STATE PUBLIC OFFICE AND TO
13 COMMITTEES SUPPORTING OR OPPOSING ANY INITIATIVE, REFERENDUM OR OTHER
14 MEASURE TO BE SUBMITTED TO A STATEWIDE VOTE OF THE PUBLIC.

15 3. ADOPT, AMEND OR REPEAL RULES PURSUANT TO CHAPTER 6 OF THIS TITLE
16 TO CARRY OUT THE PURPOSES OF THIS ARTICLE, TITLE 16, CHAPTER 6, ARTICLES
17 1, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 AND 1.7 AND SECTIONS 18-444, 38-541 AND
18 38-543.

19 4. CONDUCT INVESTIGATIONS AND AUDITS AS THE RESULT OF ANY COMPLAINT
20 BROUGHT BEFORE THE COMMISSION BY A MEMBER OF THE PUBLIC, A CANDIDATE FOR
21 STATE PUBLIC OFFICE OR A COMMITTEE SUPPORTING OR OPPOSING ANY INITIATIVE,
22 REFERENDUM OR OTHER MEASURE TO BE SUBMITTED TO A STATEWIDE VOTE OF THE
23 PUBLIC.

24 5. CONDUCT A HEARING PURSUANT TO CHAPTER 6 OF THIS TITLE IF THE
25 COMMISSION DETERMINES AFTER AN INVESTIGATION THAT A HEARING IS WARRANTED.

26 6. IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$5,000 FOR ANY VIOLATION
27 OF TITLE 16, CHAPTER 6, ARTICLES 1, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 AND 1.7
28 OR SECTIONS 18-444, 38-541 AND 38-543.

29 B. THE ARIZONA ELECTION AND ETHICS COMMISSION OR A MEMBER OF THE
30 COMMISSION MAY:

31 1. ADMINISTER OATHS, EXAMINE WITNESSES AND RECEIVE EVIDENCE
32 RELATING TO AN INVESTIGATION OR HEARING CONDUCTED PURSUANT TO THIS
33 SECTION.

34 2. ISSUE AND ENFORCE SUBPOENAS COMPELLING THE ATTENDANCE AND
35 TESTIMONY OF WITNESSES OR DEMANDING THE PRODUCTION OF PHYSICAL EVIDENCE
36 RELATING TO AN INVESTIGATION OR HEARING CONDUCTED PURSUANT TO THIS
37 SECTION.

38 C. THE ATTORNEY GENERAL SHALL ENFORCE THIS ARTICLE, TITLE 16,
39 CHAPTER 6, ARTICLES 1, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 AND 1.7 AND SECTIONS
40 18-444, 38-541 AND 38-543 THROUGH CIVIL AND CRIMINAL ACTIONS.

41 D. THE COMMISSION SHALL USE THE FOLLOWING PROCEDURES TO INVESTIGATE
42 A COMPLAINT FILED PURSUANT TO THIS SECTION:

43 1. THE COMMISSION SHALL NOTIFY BY CERTIFIED MAIL THE PERSON AGAINST
44 WHOM A COMPLAINT HAS BEEN FILED WITHIN TWO BUSINESS DAYS AFTER RECEIVING
45 THE COMPLAINT. THE NOTICE SHALL INCLUDE A COPY OF THE COMPLAINT, ANY

1 SUPPORTING DOCUMENTATION ACCOMPANYING THE COMPLAINT AND A COPY OF THIS
2 SECTION.

3 2. WITHIN SEVEN DAYS AFTER MAILING THE NOTICE, THE PERSON AGAINST
4 WHOM A COMPLAINT HAS BEEN FILED MAY FILE A RESPONSE WITH THE COMMISSION.

5 3. ON RECEIPT OF THE RESPONSE OR THE EXPIRATION OF THE SEVEN-DAY
6 PERIOD, WHICHEVER IS EARLIER, THE COMMISSION, BY MAJORITY VOTE, SHALL
7 EITHER DISMISS THE COMPLAINT WITHIN SEVEN DAYS OR PROCEED WITH A FORMAL
8 INVESTIGATION. IF THE COMPLAINT IS DISMISSED, THE COMPLAINT AND ANSWER
9 SHALL BE KEPT CONFIDENTIAL. IF THE COMMISSION VOTES TO PROCEED WITH A
10 FORMAL INVESTIGATION, THE PERSON AGAINST WHOM A COMPLAINT HAS BEEN FILED
11 SHALL BE NOTIFIED BY CERTIFIED MAIL, A FORMAL HEARING DATE SHALL BE SET
12 AND THE COMPLAINT AND ANSWER SHALL BE MADE PUBLIC. A FORMAL HEARING SHALL
13 BEGIN AT LEAST FIVE DAYS BUT NOT MORE THAN TWENTY DAYS AFTER THE NOTICE IS
14 MAILED.

15 4. FAILURE TO FILE AN ANSWER MAY NOT BE DEEMED TO BE AN ADMISSION
16 OR TO CREATE AN INFERENCE OR PRESUMPTION THAT THE COMPLAINT IS TRUE.

17 5. BY MAJORITY VOTE, THE COMMISSION MAY MODIFY THE TIME PERIODS
18 CONTAINED IN THIS SUBSECTION.

19 41-811.02. Ethics enforcement; rules; penalties; definition

20 A. THE ARIZONA ELECTION AND ETHICS COMMISSION MAY RECEIVE ANY
21 ETHICS COMPLAINT FILED AGAINST A CANDIDATE FOR STATEWIDE OR LEGISLATIVE
22 OFFICE, OR AGAINST AN ELECTED OFFICIAL OF STATE GOVERNMENT, INCLUDING THE
23 LEGISLATURE. MEMBERS OF THE PUBLIC MAY FILE COMPLAINTS. COMPLAINTS FILED
24 WITH THE COMMISSION MUST BE IN WRITING AND SIGNED BY THE COMPLAINANT.

25 B. THE ARIZONA ELECTION AND ETHICS COMMISSION MAY INVESTIGATE AND
26 MAKE RECOMMENDATIONS TO APPROPRIATE CIVIL AND CRIMINAL ENFORCEMENT
27 AGENCIES REGARDING ANY OF THE FOLLOWING:

28 1. VIOLATION OF CAMPAIGN FINANCE, FINANCIAL DISCLOSURE OR CONFLICT
29 OF INTEREST LAWS.

30 2. VIOLATION OF LAWS REGARDING EMPLOYMENT OF RELATIVES OR
31 PROHIBITED PERSONNEL PRACTICES.

32 3. NONFEASANCE, MISFEASANCE OR MALFEASANCE IN OFFICE.

33 4. OTHER ETHICAL OR STATUTORY VIOLATIONS.

34 C. THE ARIZONA ELECTION AND ETHICS COMMISSION MAY NOT CONDUCT
35 INVESTIGATIONS INVOLVING THE FOLLOWING:

36 1. THE CONDUCT OR RESULTS OF A SPECIFIC ELECTION.

37 2. DISPUTES RELATING TO THE ELECTION AND QUALIFICATION OF ANY
38 MEMBER OF THE LEGISLATURE.

39 3. THE CONDUCT OF ANY JUDICIAL OFFICER OF THIS STATE.

40 D. IN INTERPRETING THE RESTRICTIONS CONTAINED IN SUBSECTION C OF
41 THIS SECTION, THE COMMISSION SHALL OBSERVE THE SEPARATION OF POWERS UNDER
42 ARTICLE III, CONSTITUTION OF ARIZONA.

1 E. THE COMMISSION SHALL USE THE FOLLOWING PROCEDURES TO INVESTIGATE
2 A COMPLAINT FILED PURSUANT TO THIS SECTION:

3 1. THE COMMISSION SHALL NOTIFY BY CERTIFIED MAIL THE PERSON AGAINST
4 WHOM A COMPLAINT HAS BEEN FILED WITHIN TWO BUSINESS DAYS AFTER RECEIVING
5 THE COMPLAINT. THE NOTICE SHALL INCLUDE A COPY OF THE COMPLAINT, ANY
6 SUPPORTING DOCUMENTATION ACCOMPANYING THE COMPLAINT AND A COPY OF THE TEXT
7 OF THIS SECTION.

8 2. WITHIN SEVEN DAYS AFTER MAILING THE NOTICE, THE PERSON AGAINST
9 WHOM A COMPLAINT HAS BEEN FILED MAY FILE A RESPONSE WITH THE COMMISSION.

10 3. ON RECEIPT OF THE RESPONSE OR THE EXPIRATION OF THE SEVEN-DAY
11 PERIOD, WHICHEVER IS EARLIER, THE COMMISSION, BY MAJORITY VOTE, SHALL
12 EITHER DISMISS THE COMPLAINT WITHIN SEVEN DAYS OR PROCEED WITH A FORMAL
13 INVESTIGATION. IF THE COMPLAINT IS DISMISSED, THE COMPLAINT AND ANSWER
14 SHALL BE KEPT CONFIDENTIAL. IF THE COMMISSION VOTES TO PROCEED WITH A
15 FORMAL INVESTIGATION, THE PERSON AGAINST WHOM A COMPLAINT HAS BEEN FILED
16 SHALL BE NOTIFIED BY CERTIFIED MAIL, A FORMAL HEARING DATE SHALL BE SET
17 AND THE COMPLAINT AND ANSWER SHALL BE MADE PUBLIC. A FORMAL HEARING SHALL
18 BEGIN AT LEAST FIVE DAYS BUT NOT MORE THAN TWENTY DAYS AFTER THE NOTICE IS
19 MAILED.

20 4. FAILURE TO FILE AN ANSWER MAY NOT BE DEEMED TO BE AN ADMISSION
21 OR TO CREATE AN INFERENCE OR PRESUMPTION THAT THE COMPLAINT IS TRUE.

22 5. BY MAJORITY VOTE, THE COMMISSION MAY MODIFY THE TIME PERIODS
23 CONTAINED IN THIS SUBSECTION.

24 F. THE ARIZONA ELECTION AND ETHICS COMMISSION MAY:

25 1. ISSUE AND ENFORCE SUBPOENAS COMPELLING THE ATTENDANCE AND
26 TESTIMONY OF WITNESSES OR DEMANDING THE PRODUCTION OF PHYSICAL EVIDENCE
27 RELATING TO AN INVESTIGATION CONDUCTED PURSUANT TO THIS SECTION.

28 2. AFTER THE INVESTIGATION OF A COMPLAINT, IMPOSE CIVIL PENALTIES
29 OF NOT MORE THAN \$5,000 FOR ANY VIOLATION OF THIS ARTICLE.

30 3. AFTER THE INVESTIGATION OF A COMPLAINT, FORWARD THE COMPLAINT TO
31 THE APPROPRIATE LAW ENFORCEMENT AGENCY IF THE COMMISSION DETERMINES THAT
32 SUCH ACTION IS WARRANTED.

33 G. DECISIONS RENDERED BY THE COMMISSION MAY BE APPEALED TO THE
34 SUPERIOR COURT.

35 H. FOR THE PURPOSES OF THIS SECTION, "ETHICS COMPLAINT" MEANS A
36 COMPLAINT BROUGHT BEFORE THE ARIZONA ELECTION AND ETHICS COMMISSION
37 AGAINST A CANDIDATE FOR PUBLIC OFFICE, A COMMITTEE SUPPORTING OR OPPOSING
38 ANY INITIATIVE, REFERENDUM OR OTHER MEASURE TO BE SUBMITTED TO A STATEWIDE
39 VOTE OF THE PUBLIC OR AN ELECTED OFFICIAL OF STATE GOVERNMENT, INCLUDING
40 THE LEGISLATURE, THAT ALLEGES AN ETHICAL OR STATUTORY VIOLATION.

41 41-811.03. Legal advice and assistance

42 THE ATTORNEY GENERAL SHALL PROVIDE AN ATTORNEY TO RENDER LEGAL
43 ADVICE AND ASSISTANCE TO THE ARIZONA ELECTION AND ETHICS COMMISSION.
44 NOTWITHSTANDING SECTION 41-192, THE COMMISSION MAY HIRE INDEPENDENT
45 COUNSEL IN PLACE OF THE ATTORNEY GENERAL.

