

House Engrossed

elections; public resources; conflict referral

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2768

AN ACT

AMENDING SECTION 16-192, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-192, Arizona Revised Statutes, is amended to
3 read:

4 16-192. Use of state, special taxing district resources to
5 influence elections; prohibition; civil penalties;
6 definitions

7 A. Notwithstanding any other law, this state and special taxing
8 districts and any public agency, department, board, commission, committee,
9 council or authority shall not spend or use public resources to influence
10 an election, including the use or expenditure of monies, accounts, credit,
11 materials, equipment, buildings, facilities, vehicles, postage,
12 telecommunications, computer hardware and software, web pages and
13 personnel and any other thing of value of the public entity.

14 B. The prohibition on the use of public resources to influence the
15 outcome of bond, budget override and other tax-related elections includes
16 the use of special taxing district-focused promotional expenditures that
17 occur after an election is called and through election day. This
18 prohibition does not include routine special taxing district
19 communications.

20 C. This section does not prohibit:

21 1. The use of public resources, including facilities and equipment,
22 for government-sponsored forums or debates if the government sponsor
23 remains impartial and the events are purely informational and provide an
24 equal opportunity to all viewpoints. The rental and use of a public
25 facility by a private person or entity that may lawfully attempt to
26 influence the outcome of an election is ~~permitted~~ ALLOWED if it does not
27 occur at the same time and place as a government-sponsored forum or
28 debate.

29 2. The presentation of factual information in a neutral manner for
30 the purposes of educating and informing voters as otherwise provided by
31 law, including information on a bond, budget, override, candidate or other
32 type of election and including publications and activities otherwise
33 prescribed by chapter 6, article 2 of this title for the citizens clean
34 elections commission.

35 D. The attorney general, the county attorney for the county in
36 which an alleged violation of this section occurs or any resident of the
37 jurisdiction that is alleged to have committed a violation of this section
38 may file an action in the superior court to enforce this section.

39 E. Any person or public entity that knowingly violates this section
40 or that knowingly aids another person or public entity in violating this
41 section is liable for a civil penalty of not more than ~~five thousand~~
42 ~~dollars~~ \$5,000 for each violation. The court also may order the person or
43 public entity in violation to pay an additional penalty in an amount that
44 equals the value of the public resources unlawfully used. The civil
45 penalties shall be paid as follows:

1 1. For civil penalties ordered in an action filed by the attorney
2 general, to the office of the attorney general to defray the costs of
3 enforcement.

4 2. For civil penalties ordered in an action filed by the county
5 attorney, to the office of the county treasurer for deposit into the
6 general fund of the county.

7 3. For civil penalties ordered in an action filed by a resident of
8 the jurisdiction in violation, to the resident.

9 F. This section does not deny the civil and political liberties of
10 any person as guaranteed by the United States and Arizona Constitutions.

11 G. With respect to special taxing districts, this section applies
12 only to those special taxing districts that are organized pursuant to
13 title 48, chapters 5, 6, 8, 10, 13, 14, 15 and 16.

14 H. UPON RECEIPT OF A COMPLAINT ALLEGING A VIOLATION OF THIS
15 SECTION, THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL PROMPTLY EVALUATE
16 WHETHER THE COMPLAINT PRESENTS AN ACTUAL OR POTENTIAL CONFLICT OF INTEREST
17 BASED ON THE ALLEGED FACTS AND ANY APPLICABLE STATE LAW OR ETHICAL
18 RULE. WITHIN THIRTY DAYS AFTER RECEIVING THE COMPLAINT, THE ATTORNEY
19 GENERAL OR COUNTY ATTORNEY SHALL DO EITHER OF THE FOLLOWING:

20 1. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY CONCLUDES THAT THE
21 COMPLAINT PRESENTS A CONFLICT OF INTEREST, THE ATTORNEY GENERAL OR COUNTY
22 ATTORNEY SHALL DO BOTH OF THE FOLLOWING:

23 (a) REFER THE COMPLAINT TO A COUNTY ATTORNEY.

24 (b) PROVIDE THE COMPLAINANT WITH WRITTEN NOTICE OF THE REFERRAL AND
25 AN EXPLANATION OF THE BASIS FOR THE CONFLICT OF INTEREST THAT GAVE RISE TO
26 THE REFERRAL OF THE COMPLAINT.

27 2. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY CONCLUDES THAT THE
28 COMPLAINT DOES NOT PRESENT A CONFLICT OF INTEREST, THE ATTORNEY GENERAL OR
29 COUNTY ATTORNEY SHALL DO BOTH OF THE FOLLOWING:

30 (a) DISCLOSE TO THE COMPLAINANT WHETHER THE ATTORNEY GENERAL OR
31 COUNTY ATTORNEY RECEIVED ANY DIRECT OR INDIRECT FINANCIAL BENEFIT FROM ANY
32 PERSON OR ENTITY NAMED IN THE COMPLAINT WITHIN THE YEAR PRECEDING THE
33 SUBMISSION OF THE COMPLAINT.

34 (b) NOTIFY THE COMPLAINANT OF THE COMPLAINANT'S RIGHT TO REQUEST THE
35 APPOINTMENT OF A SPECIAL INVESTIGATOR WHO DOES NOT ACT AT THE DIRECTION OF
36 THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY TO RESOLVE THE COMPLAINT.

37 I. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY INVESTIGATES A
38 COMPLAINT BUT DOES NOT COMPLY WITH SUBSECTION H OF THIS SECTION, THE
39 ATTORNEY GENERAL'S OR COUNTY ATTORNEY'S INVESTIGATIVE FINDINGS ARE NULL
40 AND VOID.

41 ~~H.~~ J. For the purposes of this section:

42 1. "Government-sponsored forum or debate" means any event, or part
43 of an event or meeting, in which the government is an official sponsor,
44 which is open to the public or to invited members of the public, and whose

1 purpose is to inform the public about an issue or proposition that is
2 before the voters.

3 2. "Influence an election" means supporting or opposing a candidate
4 for nomination or election to public office or the recall of a public
5 officer or supporting or opposing a ballot measure, question or
6 proposition, including any bond, budget or override election and
7 supporting or opposing the circulation of a petition for the recall of a
8 public officer or a petition for a ballot measure, question or proposition
9 in any manner that is not impartial or neutral.

10 3. "Routine special taxing district communications" means messages
11 or advertisements that are germane to the functions of the special
12 district and that maintain the frequency, scope and distribution
13 consistent with past practices or are necessary for public safety.