

REFERENCE TITLE: elections; public resources; conflict referral

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

## **HB 2768**

Introduced by  
Representative Livingston

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. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY DETERMINES THAT A  
15 COMPLAINT ALLEGING A VIOLATION OF THIS SECTION PRESENTS AN ACTUAL OR  
16 PERCEIVED CONFLICT OF INTEREST FOR ANY REASON, THE ATTORNEY GENERAL OR  
17 COUNTY ATTORNEY SHALL DO BOTH OF THE FOLLOWING WITHIN THIRTY DAYS AFTER  
18 RECEIVING THE COMPLAINT:

19           1. REFER THE COMPLAINT TO ANOTHER COUNTY ATTORNEY NOT LATER THAN  
20 THIRTY DAYS AFTER SUBMISSION OF THE COMPLAINT.

21           2. PROVIDE THE COMPLAINANT WITH WRITTEN NOTICE OF THE REFERRAL AND  
22 AN EXPLANATION OF THE BASIS FOR THE CONFLICT OF INTEREST THAT GAVE RISE TO  
23 THE REFERRAL OF THE COMPLAINT.

24           I. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY RECEIVES A COMPLAINT  
25 ALLEGING THAT A POLITICAL PARTY OR POLITICAL ACTION COMMITTEE RECEIVED  
26 MONIES OR ANY OTHER THING OF VALUE BASED ON A VIOLATION OF THIS SECTION  
27 AND THE POLITICAL PARTY OR POLITICAL ACTION COMMITTEE MADE ANY EXPENDITURE  
28 TO INFLUENCE THE ELECTION OF THE ATTORNEY GENERAL OR COUNTY ATTORNEY WHILE  
29 THE ATTORNEY GENERAL OR COUNTY ATTORNEY WAS A CANDIDATE FOR PUBLIC OFFICE,  
30 THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL DO BOTH OF THE FOLLOWING  
31 WITHIN SIXTY DAYS AFTER RECEIVING THE COMPLAINT, UNLESS THE COMPLAINT HAS  
32 BEEN REFERRED TO ANOTHER COUNTY ATTORNEY PURSUANT TO SUBSECTION H OF THIS  
33 SECTION:

34           1. PROVIDE THE COMPLAINANT WITH A LEGAL ANALYSIS THAT EXPLAINS  
35 WHETHER THE ATTORNEY GENERAL OR COUNTY ATTORNEY HAS A CONFLICT OF INTEREST  
36 AND WHETHER THE COMPLAINT CAN BE INVESTIGATED IN A FAIR, FULL AND  
37 IMPARTIAL MANNER IN COMPLIANCE WITH APPLICABLE STATE LAWS AND ETHICAL  
38 RULES.

39           2. ALLOW THE COMPLAINANT TO REQUEST THE APPOINTMENT OF A SPECIAL  
40 INVESTIGATOR WHO DOES NOT ACT AT THE DIRECTION OF THE ATTORNEY GENERAL OR  
41 THE COUNTY ATTORNEY TO RESOLVE THE COMPLAINT.

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

43           1. "CANDIDATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 16-901.

44           ~~I.~~ 2. "Government-sponsored forum or debate" means any event, or  
45 part of an event or meeting, in which the government is an official

1 sponsor, which is open to the public or to invited members of the public,  
2 and whose purpose is to inform the public about an issue or proposition  
3 that is before the voters.

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

12 4. "POLITICAL ACTION COMMITTEE" HAS THE SAME MEANING PRESCRIBED IN  
13 SECTION 16-901.

14 5. "POLITICAL PARTY" HAS THE SAME MEANING PRESCRIBED IN SECTION  
15 16-901.

16 ~~3.~~ 6. "Routine special taxing district communications" means  
17 messages or advertisements that are germane to the functions of the  
18 special district and that maintain the frequency, scope and distribution  
19 consistent with past practices or are necessary for public safety.