

REFERENCE TITLE: campaign finance; public service corporations

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1222

Introduced by
Senators Mendez: Sundareshan

AN ACT

AMENDING TITLE 16, CHAPTER 6, ARTICLE 1.2, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-916.01; AMENDING TITLE 16, CHAPTER 6, ARTICLE 1.3, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-923; 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. Title 16, chapter 6, article 1.2, Arizona Revised
3 Statutes, is amended by adding section 16-916.01, to read:

4 16-916.01. Public service corporation contributions;
5 corporation commission; prohibition; definitions

6 A. A PUBLIC SERVICE CORPORATION, AN AFFILIATE OF A PUBLIC SERVICE
7 CORPORATION OR A PRINCIPAL OF A PUBLIC SERVICE CORPORATION OR ITS
8 AFFILIATE MAY NOT CONTRIBUTE DIRECTLY OR INDIRECTLY TO A CORPORATION
9 COMMISSION CANDIDATE OR CANDIDATE COMMITTEE.

10 B. A CORPORATION COMMISSION CANDIDATE MAY NOT ACCEPT OR SOLICIT
11 CONTRIBUTIONS DIRECTLY OR INDIRECTLY FROM A PUBLIC SERVICE CORPORATION, AN
12 AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC
13 SERVICE CORPORATION OR ITS AFFILIATE.

14 C. FOR THE PURPOSES OF THIS SECTION:

15 1. "AFFILIATE" OR "AFFILIATE OF A PUBLIC SERVICE CORPORATION" MEANS
16 ANY PERSON OR ENTITY THAT CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON
17 CONTROL WITH A PUBLIC SERVICE CORPORATION OR ANY PERSON OR ENTITY THAT
18 ACCEPTS CONTRIBUTIONS FROM A PUBLIC SERVICE CORPORATION OR THE SEPARATE
19 SEGREGATED FUND OF A PUBLIC SERVICE CORPORATION WITHIN THE SAME CALENDAR
20 YEAR IN WHICH THE PERSON OR ENTITY ALSO MAKES ANY CONTRIBUTION TO A
21 CORPORATION COMMISSION CANDIDATE.

22 2. "CONTROL" MEANS TO POSSESS, DIRECTLY OR INDIRECTLY, THE POWER TO
23 DIRECT OR TO CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF ANOTHER
24 PERSON OR ENTITY, WHETHER THROUGH VOTING POWER, OWNERSHIP, CONTRACT OR
25 OTHERWISE.

26 3. "PRINCIPAL" MEANS:

27 (a) AN AGENT, A DIRECTOR, MANAGER, PARTNER, OFFICER OR OWNER OF A
28 PUBLIC SERVICE CORPORATION OR AN AFFILIATE OF A PUBLIC SERVICE
29 CORPORATION.

30 (b) THE SPOUSE OR DEPENDENT CHILD OF ANY PERSON LISTED IN
31 SUBDIVISION (a) OF THIS PARAGRAPH.

32 (c) A POLITICAL COMMITTEE THAT IS ESTABLISHED, MAINTAINED,
33 CONTROLLED OR FUNDED BY A PUBLIC SERVICE CORPORATION OR AN AFFILIATE OF A
34 PUBLIC SERVICE CORPORATION.

35 4. "PUBLIC SERVICE CORPORATION" HAS THE SAME MEANING PRESCRIBED IN
36 ARTICLE XV, SECTION 2, CONSTITUTION OF ARIZONA.

37 Sec. 2. Title 16, chapter 6, article 1.3, Arizona Revised Statutes,
38 is amended by adding section 16-923, to read:

39 16-923. Coordinated public service corporation expenditures;
40 covered expenditures; firewall; definitions

41 A. NOTWITHSTANDING SECTION 16-922, AN EXPENDITURE BY A PUBLIC
42 SERVICE CORPORATION, AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A
43 PRINCIPAL OF A PUBLIC SERVICE CORPORATION OR ITS AFFILIATE IS NOT AN
44 INDEPENDENT EXPENDITURE IF THE EXPENDITURE IS A COORDINATED PUBLIC SERVICE
45 CORPORATION EXPENDITURE. A COORDINATED PUBLIC SERVICE CORPORATION

1 EXPENDITURE IS DEEMED TO BE AN IN-KIND CONTRIBUTION TO THE CORPORATION
2 COMMISSION CANDIDATE. ALL OF THE FOLLOWING APPLY TO COORDINATED PUBLIC
3 SERVICE CORPORATION EXPENDITURES:

4 1. THE FOLLOWING CONSTITUTE COORDINATED PUBLIC SERVICE CORPORATION
5 EXPENDITURES:

6 (a) ANY PAYMENT BY A PUBLIC SERVICE CORPORATION, AN AFFILIATE OF A
7 PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC SERVICE CORPORATION
8 OR ITS AFFILIATE FOR A COMMUNICATION THAT REPUBLISHES, DISSEMINATES OR
9 DISTRIBUTES IN WHOLE OR PART AN ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL
10 CREATED OR PREPARED BY A CORPORATION COMMISSION CANDIDATE, UNLESS THE
11 ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL IS USED TO OPPOSE THE CORPORATION
12 COMMISSION CANDIDATE THAT CREATED OR PREPARED THE MATERIAL.

13 (b) ANY COVERED EXPENDITURE THAT IS MADE BY A PUBLIC SERVICE
14 CORPORATION, AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL
15 OF A PUBLIC SERVICE CORPORATION OR ITS AFFILIATE IN COOPERATION OR
16 CONSULTATION WITH OR AT THE REQUEST OR SUGGESTION OF A CORPORATION
17 COMMISSION CANDIDATE.

18 2. A PAYMENT OR EXPENDITURE IS NOT A COORDINATED PUBLIC SERVICE
19 CORPORATION EXPENDITURE IF THE PAYMENT OR EXPENDITURE IS FOR A CANDIDATE
20 DEBATE OR FORUM CONDUCTED PURSUANT TO PROCEDURES ADOPTED BY THE SECRETARY
21 OF STATE OR IS FOR A COMMUNICATION THAT SOLELY PROMOTES A CANDIDATE DEBATE
22 OR FORUM AND IS MADE BY OR ON BEHALF OF THE PERSON SPONSORING THE DEBATE
23 OR FORUM.

24 B. NOTWITHSTANDING SECTION 16-922, IF A PUBLIC SERVICE CORPORATION,
25 AN AFFILIATE OF A PUBLIC SERVICE CORPORATION OR A PRINCIPAL OF A PUBLIC
26 SERVICE CORPORATION OR ITS AFFILIATE MAKES A COVERED EXPENDITURE IN
27 COOPERATION OR CONSULTATION WITH OR AT THE REQUEST OR SUGGESTION OF A
28 CORPORATION COMMISSION CANDIDATE, THAT COVERED EXPENDITURE IS NOT AN
29 INDEPENDENT EXPENDITURE AND IS DEEMED TO BE AN IN-KIND CONTRIBUTION TO THE
30 CORPORATION COMMISSION CANDIDATE IF ANY OF THE FOLLOWING APPLIES:

31 1. THE EXPENDITURE IS MADE PURSUANT TO ANY EXPRESS OR IMPLIED
32 AGREEMENT WITH, OR ANY GENERAL OR PARTICULAR UNDERSTANDING WITH OR
33 PURSUANT TO ANY REQUEST BY OR COMMUNICATION WITH, THE CORPORATION
34 COMMISSION CANDIDATE REGARDING THE EXPENDITURE.

35 2. DURING THE FOUR YEARS PRECEDING THE EXPENDITURE, THE PERSON
36 MAKING THE EXPENDITURE WAS DIRECTLY OR INDIRECTLY ESTABLISHED, MAINTAINED,
37 CONTROLLED OR PRINCIPALLY FUNDED BY THE CORPORATION COMMISSION CANDIDATE
38 OR AN IMMEDIATE FAMILY MEMBER OF THE CORPORATION COMMISSION CANDIDATE.
39 FOR THE PURPOSES OF THIS PARAGRAPH, "IMMEDIATE FAMILY MEMBER" MEANS A
40 PARENT, CHILD, SIBLING, SPOUSE, DOMESTIC PARTNER, FATHER-IN-LAW OR
41 MOTHER-IN-LAW OF THE CORPORATION COMMISSION CANDIDATE.

42 3. DURING THE FOUR YEARS PRECEDING THE EXPENDITURE, THE CORPORATION
43 COMMISSION CANDIDATE SOLICITED FUNDS FOR THE PERSON MAKING THE
44 EXPENDITURE, PROVIDED NONPUBLIC FUNDRAISING INFORMATION OR STRATEGY TO THE
45 PERSON, APPEARED AS A SPEAKER OR FEATURED GUEST AT A FUNDRAISER FOR THE

1 PERSON OR GAVE PERMISSION TO BE FEATURED IN FUNDRAISING EFFORTS FOR THE
2 PERSON.

3 4. THE EXPENDITURE IS BASED ON NONPUBLIC INFORMATION ABOUT THE
4 CORPORATION COMMISSION CANDIDATE'S CAMPAIGN NEEDS OR PLANS THAT THE
5 CORPORATION COMMISSION CANDIDATE OR CANDIDATE COMMITTEE DIRECTLY OR
6 INDIRECTLY PROVIDED TO THE PERSON MAKING THE EXPENDITURE, SUCH AS
7 INFORMATION ABOUT CAMPAIGN MESSAGING, STRATEGY, FUNDRAISING, PLANNED
8 EXPENDITURES OR POLLING DATA. A COMMUNICATION BETWEEN THE PERSON MAKING
9 THE EXPENDITURE AND THE CORPORATION COMMISSION CANDIDATE OR CANDIDATE
10 COMMITTEE THAT IS SOLELY FOR THE PURPOSE OF DISCUSSING THE PERSON'S
11 POSITION ON A POLICY MATTER OR DISCUSSING WHETHER THE PERSON WILL ENDORSE
12 THE CORPORATION COMMISSION CANDIDATE AND THAT DOES NOT INCLUDE NONPUBLIC
13 INFORMATION ABOUT THE CORPORATION COMMISSION CANDIDATE'S CAMPAIGN NEEDS OR
14 PLANS DOES NOT CONSTITUTE COORDINATION.

15 5. DURING THE FOUR YEARS PRECEDING THE EXPENDITURE, THE PERSON
16 MAKING THE EXPENDITURE, EXCEPT FOR ACCOUNTING OR LEGAL SERVICES, EMPLOYED
17 OR OTHERWISE RETAINED THE SERVICES OF A PERSON WHO, AT ANY TIME DURING THE
18 SAME FOUR-YEAR PERIOD, MET ANY OF THE FOLLOWING CRITERIA:

19 (a) HAD EXECUTIVE OR MANAGERIAL AUTHORITY FOR THE CORPORATION
20 COMMISSION CANDIDATE COMMITTEE, WHETHER PAID OR UNPAID.

21 (b) WAS AUTHORIZED TO RAISE OR SPEND MONIES FOR THE CORPORATION
22 COMMISSION CANDIDATE AND WHO HAD NONPUBLIC INFORMATION FROM THE
23 CORPORATION COMMISSION CANDIDATE ABOUT THE CAMPAIGN'S PLANS OR NEEDS.

24 (c) PROVIDED THE CORPORATION COMMISSION CANDIDATE WITH PROFESSIONAL
25 SERVICES RELATED TO CAMPAIGN OR FUNDRAISING STRATEGY, OTHER THAN
26 ACCOUNTING OR LEGAL SERVICES.

27 C. FOR THE PURPOSES OF SUBSECTIONS A AND B OF THIS SECTION, A
28 CORPORATION COMMISSION CANDIDATE INCLUDES:

29 1. AN EMPLOYEE OR INDEPENDENT CONTRACTOR, IF THE EMPLOYEE OR
30 INDEPENDENT CONTRACTOR HAD EXECUTIVE OR MANAGERIAL AUTHORITY FOR THE
31 CORPORATION COMMISSION CANDIDATE OR CANDIDATE COMMITTEE AT ANY TIME DURING
32 THE FOUR YEARS PRECEDING THE EXPENDITURE.

33 2. AN AGENT OF THE CORPORATION COMMISSION CANDIDATE OR CANDIDATE
34 COMMITTEE, WHETHER PAID OR UNPAID, AT ANY TIME DURING THE FOUR YEARS
35 PRECEDING THE EXPENDITURE, WITHOUT REGARD TO WHETHER THE AGENT IS ACTING
36 WITHIN THE SCOPE OF THE AGENCY WHEN ENGAGED IN THE CONDUCT PRESCRIBED IN
37 SUBSECTION B OF THIS SECTION.

38 D. NOTWITHSTANDING SUBSECTION B, PARAGRAPH 5 OF THIS SECTION, A
39 COVERED EXPENDITURE IS NOT A COORDINATED PUBLIC SERVICE CORPORATION
40 EXPENDITURE IF A PERSON ESTABLISHES AND MAINTAINS A FIREWALL THAT COMPLIES
41 WITH THIS SUBSECTION. A PERSON WHO RELIES ON A FIREWALL TO DISPROVE
42 COORDINATION BEARS THE BURDEN OF PROOF THAT THE FIREWALL WAS IN EXISTENCE
43 AND EFFECTIVE AT ALL RELEVANT TIMES. IF STRATEGIC NONPUBLIC INFORMATION
44 PASSES THROUGH A FIREWALL, ANY RESULTING EXPENDITURE IS DEEMED A
45 COORDINATED EXPENDITURE, WITHOUT REGARD TO THE EXISTENCE OF A FIREWALL, IF

1 THE EXPENDITURE WOULD OTHERWISE CONSTITUTE A COORDINATED EXPENDITURE AS
2 PRESCRIBED BY SUBSECTION B, PARAGRAPH 5 OF THIS SECTION. A PERSON
3 ESTABLISHING A FIREWALL THAT IS INTENDED TO DISPROVE COORDINATION MUST DO
4 ALL OF THE FOLLOWING:

5 1. KEEP SEPARATE THE SPECIFIC PERSONS WHO PROVIDE A SERVICE TO THE
6 PERSON RELATED TO THE EXPENDITURE FROM OTHER DISTINCT, SPECIFIC PERSONS
7 WHO HAVE ENGAGED OR WILL ENGAGE IN ANY ACTIVITY PRESCRIBED IN SUBSECTION
8 B, PARAGRAPH 5 OF THIS SECTION WITH THE CORPORATION COMMISSION CANDIDATE
9 THAT BENEFITS FROM THE PERSON'S EXPENDITURES.

10 2. FORBID EACH OWNER, EXECUTIVE, MANAGER AND SUPERVISOR OF THE
11 PERSON TO SIMULTANEOUSLY OVERSEE THE WORK OF PERSONS WHO ARE SEPARATED BY
12 A FIREWALL.

13 3. PROHIBIT THE FLOW OF STRATEGIC NONPUBLIC INFORMATION:

14 (a) BETWEEN THE PERSON AND THE CORPORATION COMMISSION CANDIDATE
15 SUPPORTED BY THE EXPENDITURES.

16 (b) BETWEEN THE SPECIFIC PERSONS WHO ARE BEING SEPARATED BY THE
17 FIREWALL.

18 4. PROVIDE FOR PHYSICAL AND TECHNOLOGICAL SEPARATIONS TO ENSURE
19 THAT STRATEGIC NONPUBLIC INFORMATION DOES NOT PASS BETWEEN THE PERSON AND
20 THE CORPORATION COMMISSION CANDIDATE SUPPORTED BY THE EXPENDITURE AND
21 BETWEEN THE SPECIFIC PERSONS WHO ARE BEING SEPARATED BY THE FIREWALL.

22 5. MEMORIALIZE BOTH THE GENERAL FIREWALL POLICY AND ANY SPECIFIC
23 FIREWALL ESTABLISHED PURSUANT TO THAT POLICY IN WRITING AND DISTRIBUTE IT
24 TO ALL RELEVANT PERSONNEL AND CONSULTANTS BEFORE ANY RELEVANT WORK IS
25 PERFORMED AND PROVIDE THE FIREWALL POLICY TO THE SECRETARY OF STATE ON
26 REQUEST.

27 6. COMPLY WITH THE FIREWALL POLICY.

28 E. FOR THE PURPOSES OF THIS SECTION:

29 1. "CORPORATION COMMISSION CANDIDATE":

30 (a) MEANS A PERSON WHO IS A CANDIDATE FOR THE CORPORATION
31 COMMISSION AT THE TIME OF AN EXPENDITURE, WITHOUT REGARD TO WHETHER THE
32 PERSON WAS A CANDIDATE FOR THE CORPORATION COMMISSION AT THE TIME OF THE
33 CONDUCT PRESCRIBED BY SUBSECTION A OR D OF THIS SECTION.

34 (b) INCLUDES THE CORPORATION COMMISSION CANDIDATE COMMITTEE.

35 2. "COVERED EXPENDITURE" MEANS PAYMENT FOR ANY OF THE FOLLOWING:

36 (a) AN ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL THAT EITHER
37 EXPRESSLY ADVOCATES FOR THE NOMINATION OR ELECTION OF THE CORPORATION
38 COMMISSION CANDIDATE OR AGAINST THE NOMINATION OR ELECTION OF AN OPPONENT
39 OF THE CORPORATION COMMISSION CANDIDATE.

40 (b) AN ADVERTISEMENT OR OTHER CAMPAIGN MATERIAL THAT PROMOTES OR
41 SUPPORTS THE CORPORATION COMMISSION CANDIDATE, OR ATTACKS OR OPPOSES AN
42 OPPONENT OF THE CORPORATION COMMISSION CANDIDATE, REGARDLESS OF WHETHER
43 THE ADVERTISEMENT EXPRESSLY ADVOCATES THE ELECTION OR DEFEAT OF A
44 CORPORATION COMMISSION CANDIDATE.

1 (c) ANY MATERIAL THAT REFERS TO A CLEARLY IDENTIFIED CORPORATION
2 COMMISSION CANDIDATE AT ANY TIME BEGINNING ONE HUNDRED TWENTY DAYS BEFORE
3 A PRIMARY ELECTION DATE THROUGH THE GENERAL ELECTION DATE AND THAT IS
4 DISSEMINATED TO AT LEAST FIVE HUNDRED INDIVIDUALS IN THIS STATE.

5 (d) RESEARCH, DESIGN OR PRODUCTION COSTS, DATA ANALYTICS, CREATING
6 OR PURCHASING MAILING OR SOCIAL MEDIA LISTS OR OTHER ACTIVITIES RELATED TO
7 EXPENDITURES PRESCRIBED IN SUBDIVISIONS (a), (b) AND (c) OF THIS
8 PARAGRAPH.