House Engrossed

**FILED**
**KEN BENNETT**
**SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 4

# HOUSE BILL 2788

AN ACT

AMENDING TITLE 16, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-914.02; AMENDING SECTIONS 16-919 AND 16-920, ARIZONA REVISED STATUTES; RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 16, chapter 6, article 1, Arizona Revised Statutes, is amended by adding section 16-914.02, to read:

16-914.02. Reporting independent expenditures of corporations and labor organizations; statement; disclaimer and disclosure; civil action; penalty; definitions

A. ANY CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION THAT MAKES CUMULATIVE INDEPENDENT EXPENDITURES IN AN ATTEMPT TO INFLUENCE THE OUTCOME OF A CANDIDATE ELECTION AND IN AT LEAST THE FOLLOWING AMOUNTS IN AN ELECTION CYCLE SHALL REGISTER AND NOTIFY THE APPROPRIATE FILING OFFICER NOT LATER THAN ONE DAY AFTER MAKING THAT EXPENDITURE, EXCLUDING SATURDAYS, SUNDAYS AND OTHER LEGAL HOLIDAYS:

1. AN AGGREGATE OF FIVE THOUSAND DOLLARS OR MORE IN ONE OR MORE STATEWIDE RACES.

2. AN AGGREGATE OF TWO THOUSAND FIVE HUNDRED DOLLARS OR MORE IN ONE OR MORE LEGISLATIVE RACES.

3. ONE THOUSAND DOLLARS OR MORE IN ONE OR MORE COUNTY, CITY, TOWN OR OTHER LOCAL RACES IF THE ONE THOUSAND DOLLARS IS AGGREGATED IN RACES IN A SINGLE COUNTY, CITY, TOWN OR OTHER LOCAL JURISDICTION.

B. THE SECRETARY OF STATE IS THE FILING OFFICER FOR REGISTRATIONS AND NOTIFICATIONS FOR INDEPENDENT EXPENDITURES IN STATEWIDE AND LEGISLATIVE ELECTIONS. CITY, TOWN OR COUNTY FILING OFFICERS ARE THE FILING OFFICERS FOR NOTIFICATIONS IN A CITY, TOWN, COUNTY OR OTHER LOCAL ELECTION AS PROVIDED IN SECTION 16-916. THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION ALSO SHALL NOTIFY THE FILING OFFICER WITHIN THE SAME TIME LIMIT PRESCRIBED IN SUBSECTION A OF THIS SECTION OF EACH ADDITIONAL ACCUMULATION OF EXPENDITURES THAT EXCEEDS THE THRESHOLD AMOUNT PRESCRIBED IN SUBSECTION A OF THIS SECTION BUT IS NOT REQUIRED TO REGISTER AGAIN DURING THAT ELECTION CYCLE AFTER THE INITIAL REGISTRATION. A CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION MAY REGISTER WITH THE FILING OFFICER AND PROVIDE A NOTARIZED, SWORN STATEMENT OF AUTHORITY IN ADVANCE OF THE EXPENDITURE IN ANTICIPATION OF MAKING AN INDEPENDENT EXPENDITURE. THE SECRETARY OF STATE SHALL PROVIDE FOR ELECTRONIC FILING FOR REGISTRATIONS AND NOTIFICATIONS AND SHALL PROVIDE FOR WEBSITE ACCESS TO THE INFORMATION FOR THE PUBLIC. FILINGS AT THE SECRETARY OF STATE'S OFFICE SHALL BE IN THE FORM PRESCRIBED BY THE SECRETARY OF STATE. OTHER FILING OFFICERS SHALL PRESCRIBE THE FORMAT FOR FILING REGISTRATIONS AND NOTIFICATIONS AND SHALL PROVIDE FOR PUBLIC ACCESS TO THAT INFORMATION. ON OR AFTER NOVEMBER 27, 2012 AND AT THE REQUEST OF THE LOCAL ELECTION FILING OFFICER, THE SECRETARY OF STATE MAY PROVIDE FOR ELECTRONIC FILING PURSUANT TO THIS SECTION FOR LOCAL ELECTIONS.

C. THE REGISTRATION SHALL INCLUDE ALL OF THE FOLLOWING:

1. THE NAME AND ADDRESS OF THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION.

2. THE NAME, TITLE, ELECTRONIC MAIL ADDRESS AND TELEPHONE NUMBER OF THE PERSON AUTHORIZING THE INDEPENDENT EXPENDITURE.

D. EACH NOTIFICATION SHALL INCLUDE ALL OF THE FOLLOWING:

1. THE NAME AND ADDRESS OF THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION MAKING THE INDEPENDENT EXPENDITURE.

2. THE AMOUNT OF THE EXPENDITURE AND THE NAME OF THE VENDOR OR OTHER PAYEE RECEIVING THE EXPENDITURE.

3. THE NAME OF THE CANDIDATE AND RACE IN WHICH THE EXPENDITURE WAS MADE AND WHETHER THE EXPENDITURE WAS IN SUPPORT OF OR OPPOSITION TO THE CANDIDATE.

4. THE COMMUNICATION MEDIUM AND DESCRIPTION OF WHAT WAS PURCHASED WITH THE EXPENDITURE.

5. THE DATE OF THE EXPENDITURE.

E. IF THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION DID NOT REGISTER AND PROVIDE A NOTARIZED SWORN STATEMENT IN ADVANCE OF THE EXPENDITURE AS PRESCRIBED BY THIS SECTION, THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION SHALL FILE WITH THE SECRETARY OF STATE OR OTHER APPROPRIATE FILING OFFICER WITHIN FIVE DAYS AFTER AN INITIAL THRESHOLD EXPENDITURE AS PRESCRIBED IN SUBSECTION A OF THIS SECTION A NOTARIZED SWORN STATEMENT THAT THE PERSON, AGENT OR OFFICER FILING THE REGISTRATION AND NOTICE HAD AUTHORITY TO MAKE THAT EXPENDITURE ON BEHALF OF THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION. UNTIL THE SECRETARY OF STATE OR OTHER FILING OFFICER RECEIVES THE NOTARIZED SWORN STATEMENT, THE FILING OFFICER SHALL CATEGORIZE THE NOTIFICATION AS UNVERIFIED. IF THE SECRETARY OF STATE OR OTHER FILING OFFICER DOES NOT RECEIVE THE NOTARIZED SWORN STATEMENT WITHIN THE REQUIRED FIVE DAY TIME FRAME, THE NOTIFICATION SHALL BE CATEGORIZED AS BOTH UNVERIFIED AND DELINQUENT. THE FILING OFFICER SHALL MAKE REASONABLE EFFORTS TO CONTACT THE ENTITY THAT MADE THE EXPENDITURE AND REMOVE THE NOTIFICATION FROM PUBLIC VIEW WITHIN A REASONABLE TIME IF UNABLE TO VERIFY THAT THE ENTITY MADE THE EXPENDITURE AND ALL PENALTIES PRESCRIBED IN THIS SECTION APPLY.

F. ANY LITERATURE OR ADVERTISEMENT THAT IS PURCHASED WITH MONIES FROM A CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION MAKING AN INDEPENDENT EXPENDITURE IN AN ATTEMPT TO INFLUENCE THE OUTCOME OF A CANDIDATE ELECTION SHALL DISCLOSE THE NAME OF THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION MAKING THE EXPENDITURE. ANY DISCLOSURE STATEMENT REQUIRED BY THIS SECTION SHALL BE PRINTED CLEARLY AND LEGIBLY IN A CONSPICUOUS MANNER. IF THE COMMUNICATION IS BROADCAST ON RADIO, THE INFORMATION SHALL BE SPOKEN AT THE END OF THE COMMUNICATION. IF THE COMMUNICATION IS BROADCAST ON A TELECOMMUNICATIONS SYSTEM, THE INFORMATION SHALL BE BOTH WRITTEN AND SPOKEN AT THE END OF THE COMMUNICATION, EXCEPT THAT IF THE DISCLOSURE STATEMENT IS WRITTEN FOR AT LEAST FIVE SECONDS OF A THIRTY SECOND ADVERTISEMENT BROADCAST OR TEN SECONDS OF A SIXTY SECOND ADVERTISEMENT BROADCAST, A SPOKEN DISCLOSURE STATEMENT IS NOT REQUIRED. IF THE COMMUNICATION IS BROADCAST ON A TELECOMMUNICATIONS SYSTEM, THE WRITTEN DISCLOSURE STATEMENT SHALL BE PRINTED IN LETTERS EQUAL TO OR LARGER THAN FOUR PER CENT OF THE VERTICAL PICTURE HEIGHT. THE LITERATURE OR ADVERTISEMENT

SHALL INCLUDE THE WORDS "PAID FOR BY" IN THE DISCLOSURE FOLLOWED BY THE NAME OF THE ENTITY MAKING THE EXPENDITURE AND SHALL ALSO STATE THAT IT IS NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S CAMPAIGN COMMITTEE.

G. SUBSECTION F OF THIS SECTION DOES NOT APPLY TO BUMPER STICKERS, PINS, BUTTONS, PENS AND SIMILAR SMALL ITEMS ON WHICH THE STATEMENTS REQUIRED IN SUBSECTION F OF THIS SECTION CANNOT BE CONVENIENTLY PRINTED OR TO A COMMUNICATION BY AN ORGANIZATION SOLELY TO ITS MEMBERS.

H. ANY CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION THAT FAILS TO REGISTER, NOTIFY OR DISCLOSE AS REQUIRED BY THIS SECTION IS LIABLE IN A CIVIL ACTION PURSUANT TO SECTION 16-924 BROUGHT BY THE ATTORNEY GENERAL, COUNTY ATTORNEY OR CITY OR TOWN ATTORNEY, AS APPROPRIATE, FOR A CIVIL PENALTY OF UP TO THREE TIMES THE TOTAL AMOUNT OF THE EXPENDITURE.

I. ANY PERSON WHO MAKES A KNOWINGLY FALSE FILING RELATING TO AN INDEPENDENT EXPENDITURE PURSUANT TO THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR.

J. FOR VIOLATIONS THAT OCCUR BEFORE NOVEMBER 27, 2012, A REASONABLE CAUSE DETERMINATION FOR A VIOLATION OF THIS SECTION MAY ONLY BE MADE BY THE SECRETARY OF STATE'S OFFICE AND NOT BY ANY OTHER FILING OFFICER. ON OR AFTER NOVEMBER 27, 2012, THE LOCAL ELECTION JURISDICTION AND FILING OFFICERS MAY MAKE THEIR OWN REASONABLE CAUSE DETERMINATIONS FOR VIOLATIONS OF THIS SECTION OR MAY ELECT TO CONTINUE TO HAVE THE OFFICE OF THE SECRETARY OF STATE MAKE THOSE REASONABLE CAUSE DETERMINATIONS ON THEIR BEHALF. A CIVIL OR CRIMINAL ENFORCEMENT ACTION MAY NOT BE FILED UNTIL AFTER THE ISSUANCE OF A REASONABLE CAUSE DETERMINATION.

K. ANY ENTITY THAT MAKES AN INDEPENDENT EXPENDITURE AND THAT IS ORGANIZED PRIMARILY FOR THE PURPOSE OF INFLUENCING AN ELECTION AND THAT IS A COMBINATION OF CORPORATIONS, LIMITED LIABILITY COMPANIES OR LABOR ORGANIZATIONS OR THAT IS A CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION THAT ACCEPTS DONATIONS OR CONTRIBUTIONS SHALL FILE WITH THE FILING OFFICER AS A POLITICAL COMMITTEE AS OTHERWISE PROVIDED BY LAW.

L. FOR THE PURPOSES OF THIS SECTION, AN EXPENDITURE OCCURS ON THE DATE ON WHICH LITERATURE OR ADVERTISEMENTS ARE DEPOSITED AT THE POST OFFICE FOR MAILING, SUBMITTED TO A COMMUNICATIONS SYSTEM FOR BROADCAST OR SUBMITTED TO A NEWSPAPER OR SIMILAR PRINT MEDIUM FOR PRINTING AND, WITH RESPECT TO AN EXPENDITURE FOR SIGNS, THE DATE ON WHICH A SIGN IS FIRST POSTED.

M. FOR THE PURPOSES OF THIS SECTION:

1. "INDEPENDENT EXPENDITURE" HAS THE SAME MEANING PRESCRIBED IN SECTION 16-901, EXCEPT THAT IT IS MADE BY A CORPORATION, A LIMITED LIABILITY COMPANY OR A LABOR ORGANIZATION AND EXCEPT AS PRESCRIBED IN SUBSECTION L OF THIS SECTION.

2. "LOCAL ELECTION" MEANS AN ELECTION IN A COUNTY, CITY, TOWN, SCHOOL DISTRICT OR SPECIAL DISTRICT.

Sec. 2. Section 16-919, Arizona Revised Statutes, is amended to read:

16-919. Prohibition of contributions by corporations, limited liability companies or labor organizations; exemption; classification; definitions

A. EXCEPT AS PROVIDED IN SECTION 16-914.02, it is unlawful for a corporation or a limited liability company to make AN EXPENDITURE OR any contribution of money or anything of value for the purpose of influencing an election, and it is unlawful for the designating individual who formed an exploratory committee, an exploratory committee, a candidate or a candidate's campaign committee to accept any contribution of money or anything of value from a corporation or a limited liability company for the purpose of influencing an election. This subsection does not apply to political committees that are incorporated pursuant to title 10, chapters 24 through 40 and political committees that are organized as limited liability companies.

B. EXCEPT AS PROVIDED IN SECTION 16-914.02, it is unlawful for a labor organization to make AN EXPENDITURE OR any contribution of money or anything of value for the purpose of influencing an election.

C. A corporation, limited liability company or labor organization ~~which~~ THAT violates this section is guilty of a class 2 misdemeanor.

D. The person through whom the violation is effected is guilty of a class 6 felony.

E. Notwithstanding subsection A of this section, a political committee that is incorporated only for the purposes of liability limitation may make contributions for the purpose of influencing an election. Notwithstanding the corporate status of a political committee, the chairman and treasurer of an incorporated political committee remain personally responsible for carrying out their respective duties under this article.

F. For the purposes of this section:

1. "Election" means any election to any political office, any election to any political convention or caucus~~,~~ or any primary election held for the purpose of selecting any candidate, political committee or other person for any political office, convention or caucus.

2. "Employee" includes any employee, is not limited to the employees of a particular employer and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice.

3. "Employer" includes any person acting as an agent of an employer, directly or indirectly.

4. "Labor organization" means any organization of any kind or any agency or employee representation committee or plan in which employees participate and ~~which~~ THAT exists for the purpose in whole or in part of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

Sec. 3. Section 16-920, Arizona Revised Statutes, is amended to read:

16-920. Permitted expenditures by corporations and labor organizations

A. Expenditures for the following purposes shall not be construed to be political contributions prohibited by law:

1. Communications by a corporation to its stockholders and executive or administrative personnel and their families, or by a labor organization to its members and their families, on any subject.

2. Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families.

3. The establishment, administration and solicitation of voluntary contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, trade association, cooperative or corporation without capital stock.

4. The establishment, administration and solicitation of voluntary contributions from employees of a corporation or limited liability company, including contributions made by payroll deduction, deposit or transfer or other similar method, and that are made directly to a separate segregated fund that is used for political purposes by a trade association of which the employing corporation or limited liability company is a member. Contributions received under this subsection shall be reported pursuant to section 16-915, subsection A, paragraph 2, subdivision (a) or subsection E.

5. Contributions for use to support or oppose an initiative or referendum measure or amendment to the constitution.

6. INDEPENDENT EXPENDITURES MADE PURSUANT TO SECTION 16-914.02.

B. A membership organization, trade association, cooperative or corporation without capital stock may engage in the activities permitted in SUBSECTION A, paragraphs 1 and 2 ~~of subsection A~~ of this section if such activities are directed toward its members, stockholders or members of its members, its and its members' executive or administrative personnel~~,~~ and their families.

Sec. 4. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR APRIL 1, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 1, 2010.

Passed the House March 24, 2010

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

with emergency

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 29, 2010

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

With Emergency

President of the Senate

Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA**
**OFFICE OF GOVERNOR**

This Bill received by the Governor this

30th day of March, 2010

at 2:40 o'clock P. M.

Secretary to the Governor

Approved this 1st day of

April

at 4:20 o'clock P. M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA**
**OFFICE OF SECRETARY OF STATE**

This Bill received by the Secretary of State

this 1st day of April, 2010

at 5:15 o'clock P. M.

Secretary of State

H.B. 2788