House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 296

HOUSE BILL 2613

AN ACT

AMENDING SECTIONS 9-500.14, 11-410, 15-511, 15-1408 AND 16-192, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 9-500.14, Arizona Revised Statutes, is amended to read:

9-500.14. Use of city or town resources or employees to influence elections; prohibition; civil penalty; definitions

A. A city or town shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the city or town, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a city or town may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a city or town from reporting on official actions of the governing body.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF CITY-FOCUSED OR TOWN-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE CITY OR TOWN COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of city or town resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. Employees of a city or town shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~D.~~ E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the city or town is located for the purpose of complying with this section.

~~E.~~ F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the city or town budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. City or town funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the city or town whose funds were misused.

~~F.~~ G. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

~~G.~~ H. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means city or town monies or resources used unlawfully as proscribed by this section.

4. "ROUTINE CITY OR TOWN COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE CITY OR TOWN AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

Sec. 2. Section 11-410, Arizona Revised Statutes, is amended to read:

11-410. <u>Use of county resources or employees to influence elections; prohibition; civil penalty; definitions</u>

A. A county shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a county may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a county from reporting on official actions of the county board of supervisors.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF COUNTY-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE COUNTY COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of county resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. Employees of a county shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~D.~~ E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the alleged violation occurred for the purpose of complying with this section.

~~E.~~ F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the county budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. County funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the county whose funds were misused.

~~F.~~ G. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

~~G.~~ H. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means county monies or resources used unlawfully as proscribed by this section.

4. "ROUTINE COUNTY COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE COUNTY AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

Sec. 3. Section 15-511, Arizona Revised Statutes, is amended to read:

15-511. <u>Use of school district or charter school resources or employees to influence elections; prohibition; civil penalty; definitions</u>

A. A person acting on behalf of a school district or a person who aids another person acting on behalf of a school district shall not spend or use school district or charter school resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage,

telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the school district or charter school, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a school district may distribute informational reports on a proposed budget override election as provided in section 15-481, subsections B and C or informational reports on a proposed bond election as provided in section 15-491, subsection D if those informational reports present factual information in a neutral manner, except for those arguments presented as prescribed in section 15-481, subsection B, paragraph 9. Nothing in this section precludes a school district from reporting on official actions of the governing board.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF SCHOOL DISTRICT-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE SCHOOL DISTRICT COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of school district or charter school resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. An employee of a school district or charter school who is acting as an agent of or working in an official capacity for the school district or charter school may not give pupils written materials to influence the outcome of an election or to advocate support for or opposition to pending or proposed legislation.

~~D.~~ E. Employees of a school district or charter school may not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~E.~~ F. Notwithstanding section 15-342, paragraph 8, a school district shall not spend monies for membership in an association that attempts to influence the outcome of an election.

~~F.~~ G. Nothing contained in this section shall be construed as denying the civil and political liberties of any person as guaranteed by the United States and Arizona Constitutions.

~~G.~~ H. The attorney general shall publish and distribute to school districts and charter schools a detailed guideline regarding activities prohibited under this section. The attorney general may distribute these guidelines through a website or electronically.

~~H.~~ I. The attorney general or the county attorney for the county in which an alleged violation of this section occurred may initiate a suit in

the superior court in the county in which the school district or charter school is located for the purpose of complying with this section.

~~I.~~ J. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the school district budget against a person who knowingly violates or a person who knowingly aids another person in violating this section. The person determined to be out of compliance with this section shall be responsible for the payment of all penalties and misused funds. School district funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the school district or charter school whose funds were misused.

~~J.~~ K. An attorney acting on behalf of a public school may request a legal opinion of the county attorney or attorney general as to whether a proposed use of school district resources would violate this section.

~~K.~~ L. All penalties collected by the court for a suit initiated in superior court by the attorney general shall be paid to the office of the attorney general for the use and reimbursement of costs of prosecution pursuant to this section. All penalties collected by the court for a suit initiated in superior court by a county attorney shall be paid to the county treasurer of the county in which the court is held for the use and reimbursement of costs of prosecution pursuant to this section.

~~L.~~ M. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means school district monies or resources used unlawfully pursuant to this section.

4. "ROUTINE SCHOOL DISTRICT COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE SCHOOL DISTRICT AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

Sec. 4. Section 15-1408, Arizona Revised Statutes, is amended to read:

15-1408. Use of community college district resources or employees to influence elections; prohibition; civil penalty; definitions

A. A person acting on behalf of a community college district or a person who aids another person acting on behalf of a community college district shall not spend or use community college district, resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the community college district, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a community college district may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational ~~reports~~ PAMPHLETS present factual information in a neutral manner. Nothing in this section precludes a community college district from reporting on official actions of the governing board.

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF COMMUNITY COLLEGE DISTRICT-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE COMMUNITY COLLEGE DISTRICT COMMUNICATIONS.

~~B.~~ C. This section does not prohibit the use of community college resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a community college district facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

~~C.~~ D. Employees of a community college district may not use the authority of their positions to influence the vote or political activities of any subordinate employee.

~~D.~~ E. This section does not prohibit community college districts from permitting student political organizations of political parties, including those that are recognized pursuant to sections 16-801, 16-802 and 16-803, to conduct lawful meetings in community college buildings or on community college grounds, except as prescribed in subsection A of this section. Each student political organization that is allowed to conduct lawful meetings on community college property shall have equal access as any other student political organization that is allowed to conduct lawful meetings on community college property.

~~E.~~ F. Nothing contained in this section shall be construed as denying the civil and political liberties of any person as guaranteed by the United States and Arizona Constitutions.

~~F.~~ G. The attorney general shall publish and distribute to community colleges a detailed guideline regarding activities prohibited under this section. The attorney general may distribute these guidelines through a web site or electronically.

~~G.~~ H. The attorney general or the county attorney for the county in which an alleged violation of this section occurred may serve on the person an order requiring compliance with this section and may assess a civil penalty of not more than five thousand dollars per violation, plus any amount of misused funds subtracted from the community college district budget against a person who violates or a person who aids another person in violating this section. The person determined to be out of compliance with this section shall be responsible for the payment of all penalties and misused funds. Community college funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the community college district whose funds were misused.

~~H.~~ I. An attorney acting on behalf of a community college district may request a legal opinion of the county attorney or attorney general as to whether a proposed use of community college resources would violate this section.

~~I.~~ J. All penalties collected by the court for a suit initiated in superior court by the attorney general shall be paid to the office of the attorney general for the use and reimbursement of costs of prosecution pursuant to this section. All penalties collected by the court for a suit initiated in superior court by a county attorney shall be paid to the county treasurer of the county in which the court is held for the use and reimbursement of costs of prosecution pursuant to this section.

~~J.~~ K For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means community college district monies or resources used unlawfully pursuant to this section.

4. "ROUTINE COMMUNITY COLLEGE DISTRICT COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE COMMUNITY COLLEGE DISTRICT AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

Sec. 5. Section 16-192, Arizona Revised Statutes, is amended to read:

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

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

B. THE PROHIBITION ON THE USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF BOND, BUDGET OVERRIDE AND OTHER TAX-RELATED ELECTIONS INCLUDES THE USE OF SPECIAL TAXING DISTRICT-FOCUSED PROMOTIONAL EXPENDITURES THAT OCCUR AFTER AN ELECTION IS CALLED AND THROUGH ELECTION DAY. THIS PROHIBITION DOES NOT INCLUDE ROUTINE SPECIAL TAXING DISTRICT COMMUNICATIONS.

~~B.~~ C. This section does not prohibit:

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

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

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

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

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

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

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

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

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

~~G.~~ H. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

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

3. "ROUTINE SPECIAL TAXING DISTRICT COMMUNICATIONS" MEANS MESSAGES OR ADVERTISEMENTS THAT ARE GERMANE TO THE FUNCTIONS OF THE SPECIAL DISTRICT AND THAT MAINTAIN THE FREQUENCY, SCOPE AND DISTRIBUTION CONSISTENT WITH PAST PRACTICES OR ARE NECESSARY FOR PUBLIC SAFETY.

APPROVED BY THE GOVERNOR APRIL 13, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2015.

Passed the House March 11, 2015

by the following vote: 36 Ayes,

23 Nays, 1 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate April 2, 2015

by the following vote: 17 Ayes,

12 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

6th day of April, 2015

at 9:13 o'clock A. M.

Secretary to the Governor

Approved this 13th day of

April

at 10:54 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 14th day of April, 2015

at 10:30 o'clock A M.

Secretary of State

H.B. 2613