Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 346

HOUSE BILL 2296

AN ACT

AMENDING SECTION 16-911, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2016, CHAPTER 79, SECTION 12; AMENDING SECTION 16-922, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2011, CHAPTER 149, SECTION 1; AMENDING SECTIONS 16-922 AND 16-926, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2016, CHAPTER 79, SECTION 12; 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. Section 16-911, Arizona Revised Statutes, as added by Laws 2016, chapter 79, section 12, is amended to read:

16-911. Exemption from definition of contribution

A. A person may make any contribution not otherwise prohibited by law.

B. The following are not contributions:

1. The value of an individual's volunteer services or expenses that are provided without compensation or reimbursement, including the individual's:

(a) Travel expenses.

(b) Use of real or personal property.

(c) Cost of invitations, food or beverages.

(d) Use of e-mail, internet activity or social media messages, only if the individual's use is not paid for by the individual or any other person and if the e-mails, social media messages or other internet activities do not contain or include transmittal of a paid advertisement or paid fund-raising solicitation.

2. The costs incurred for covering or carrying a news story, commentary or editorial by a broadcasting station or cable television operator, an internet website, a newspaper or another periodical publication, including an internet-based or electronic publication, if the cost for the news story, commentary or editorial is not paid for by and the medium is not owned or under the control of a candidate or committee.

3. Any payment to defray the expense of an elected official meeting with constituents or attending an informational tour, conference, seminar or presentation, if the payor or the elected official does not attempt to influence the result of an election and the payment is reported if required pursuant to title 38, chapter 3.1 or title 41, chapter 7, article 8.1, or both.

4. The payment by a political party to support its nominee, including:

(a) The printing or distribution of, or postage expenses for, voter guides, sample ballots, pins, bumper stickers, handbills, brochures, posters, yard signs and other similar materials distributed through the party.

(b) Coordinated political party expenditures.

5. The payment by any person to defray a political party's operating expenses or party-building activities, including:

(a) Party staff and personnel.

(b) Studies and reports.

(c) Voter registration, recruitment, polling and turnout efforts.

(d) Party conventions and party meetings.

(e) Construction, purchase or lease of party buildings or facilities.

6. The value of any of the following to a committee:

(a) Interest earned on the committee's deposits or investments.

(b) Transfers between committees to reimburse expenses and distribute monies raised through a joint fund-raising effort, ~~except that contributions shall be allocated as described in the fund-raising solicitation and expenses shall be allocated in the same proportion as contributions~~ IF THE TRANSFERS COMPLY WITH AN AGREEMENT TO REIMBURSE AND DISTRIBUTE MONIES THAT WAS EXECUTED BEFORE THE JOINT FUND-RAISING EFFORT OCCURRED.

(c) Payment of a committee's legal or accounting expenses by any person.

(d) An extension of credit for goods and services on a committee's behalf by a creditor if the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. The creditor must make a commercially reasonable attempt to collect the debt, except that if an extension of credit remains unsatisfied by the committee after six months the committee is deemed to have received a contribution but the creditor is not deemed to have made a contribution.

7. The value of nonpartisan communications that are intended to encourage voter registration and turnout efforts.

8. Any payment to a filing officer for arguments in a publicity pamphlet.

9. The payment by any sponsor or its affiliate for the costs of establishing, administering and soliciting contributions from its employees, members, executives, stockholders and retirees and their families to the sponsor's separate segregated fund.

10. Any payment by any entity for the costs of communicating with its employees, members, executives, stockholders and retirees and their families about any subject, without regard to whether those communications are made in coordination with any candidate or candidate's agent.

11. The value of allowing a candidate or a committee's representative to appear at any private residence or at the facilities of any entity to speak about the candidate's campaign or about a ballot measure, if the venue is furnished by the venue's owner, is not paid for by a third party and is not a sports stadium, coliseum, convention center, hotel ballroom, concert hall or other similar arena that is generally open to the public.

12. The costs of hosting a debate or candidates' forum, if at least two opposing candidates, with respect to any given office sought, or representatives of at least two opposing ballot measure campaigns, with respect to any measure on the ballot, are invited with the same or similar advance notice and method of invitation.

13. The preparation and distribution of voter guides, subject to the following:

(a) A featured candidate or ballot measure shall not receive greater prominence or substantially more space in the voter guide than any other candidate or ballot measure.

(b) The voter guide shall not include any message that constitutes express advocacy.

14. Monies that are loaned by a financial institution in the ordinary course of business and not for the purpose of influencing the results of an election, except that the loan is deemed a pro rata contribution by any endorser or guarantor, other than the candidate's spouse.

15. The costs of publishing a book or producing a documentary, if the publication and production are for distribution to the general public through traditional distribution mechanisms or a fee is obtained for the purchase of the publication or viewing of the documentary.

C. This section does not imply that any transactions that are not specifically listed in subsection B of this section are contributions unless those transactions otherwise meet the definition of contribution AS defined in section 16-901.

Sec. 2. Section 16-922, Arizona Revised Statutes, as added by Laws 2011, chapter 149, section 1, is amended to read:

16-922. Religious assembly, institution; charitable organization; registration exemption

Notwithstanding any other law, this state and any agency or political subdivision of this state shall not require a person OR ENTITY to:

1. Register as a political committee OR FILE ANY REPORTS pursuant to this chapter if the person OR ENTITY is a religious assembly or institution OR IS ANY OTHER ENTITY WITH A CHARITABLE TAX EXEMPTION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE OR ANY SUCCESSOR PROVISION OF FEDERAL TAX LAW that does not spend a substantial amount of time or assets, within the meaning of section 501(c)(3) of the internal revenue code, on influencing any federal, state or local legislation, referendum, initiative or constitutional amendment.

2. REGISTER AS A POLITICAL COMMITTEE IF ALL OF THE FOLLOWING APPLY:

(a) THE PERSON HAS TAX EXEMPT STATUS UNDER SECTION 501(a) OF THE INTERNAL REVENUE CODE OR ANY OTHER SUCCESSOR PROVISION OF FEDERAL TAX LAW.

(b) EXCEPT FOR A RELIGIOUS ASSEMBLY OR INSTITUTION, THE PERSON HAS PROPERLY FILED FORM 1023 OR FORM 1024 WITH THE INTERNAL REVENUE SERVICE OR THE EQUIVALENT SUCCESSOR FORM DESIGNATED BY THE INTERNAL REVENUE SERVICE.

(c) THE PERSON HAS PROPERLY FILED FORM 990 WITH THE INTERNAL REVENUE SERVICE OR THE EQUIVALENT SUCCESSOR FORM DESIGNATED BY THE INTERNAL REVENUE SERVICE.

(d) THE PERSON'S TAX EXEMPT STATUS HAS NOT BEEN DENIED OR REVOKED BY THE INTERNAL REVENUE SERVICE.

(e) THE PERSON REMAINS IN GOOD STANDING WITH THE CORPORATION COMMISSION.

Sec. 3. Section 16-922, Arizona Revised Statutes, as added by Laws 2016, chapter 79, section 12, is amended to read:

16-922. Independent and coordinated expenditures

A. Any person may make independent expenditures.

B. An expenditure is not an independent expenditure if either of the following applies:

1. There is actual coordination with respect to an expenditure between a candidate or candidate's agent and the person making the expenditure or that person's agent.

2. Both of the following apply:

(a) The expenditure is based on nonpublic information about a candidate's or candidate committee's plans or needs that the candidate or candidate's agent provides to the person making the expenditure or that person's agent.

(b) The candidate or candidate's agent provides the nonpublic information with an intent toward having the expenditure made.

C. In evaluating whether an expenditure is an independent expenditure, a filing officer or enforcement officer may consider the following to be rebuttable evidence of coordination:

1. Any agent of the person making the expenditure is also an agent of the candidate whose election or whose opponent's defeat is being advocated by the expenditure.

2. In the same election cycle, the person making the expenditure or that person's agent is or has been authorized to raise or spend monies on the candidate's behalf.

3. In the same election cycle, the candidate is or has been authorized to raise money or solicit contributions on behalf of the person making the expenditure.

D. Notwithstanding subsection C of this section, coordination does not exist under either of the following:

1. If the person making the expenditure maintains a firewall between the person and that person's agent in compliance with all of the following:

(a) The person's agent did not participate in deciding to make the expenditure or in deciding the content, timing or targeting of the expenditure.

(b) The person making the expenditure has a written policy establishing the firewall and its requirements.

(c) The person making the expenditure and the person's agent followed the written policy regarding the firewall.

2. Solely because an agent of a person making the expenditure serves or has served on a candidate's host committee for a fund-raising event.

E. An expenditure that is coordinated with a candidate, other than a coordinated party expenditure, is deemed an in-kind contribution to the candidate.

F. An entity that makes an independent expenditure, other than an individual or a committee, shall file independent expenditure reports pursuant to section 16-926, subsection ~~G~~ H.

Sec. 4. Section 16-926, Arizona Revised Statutes, as added by Laws 2016, chapter 79, section 12, is amended to read:

16-926. Campaign finance reports; contents

A. A committee shall file campaign finance reports with the filing officer. The secretary of state's instructions and procedures manual adopted pursuant to section 16-452 shall prescribe the format for all reports and statements.

B. A campaign finance report shall set forth:

1. The amount of cash on hand at the beginning of the reporting period.

2. Total receipts during the reporting period, including:

(a) An itemized list of receipts in the following categories, including the source, amount and date of receipt, together with the total of all receipts in each category:

(i) Contributions from individuals whose contributions exceed fifty dollars for that election cycle, including identification of the contributor's occupation and employer.

(ii) Contributions from candidate committees.

(iii) Contributions from political action committees.

(iv) Contributions from political parties.

(v) Contributions from partnerships.

(vi) For a political action committee or political party, contributions from corporations and limited liability companies, including identification of the corporation's or limited liability company's file number issued by the corporation commission.

(vii) For a political action committee or political party, contributions from labor organizations, including identification of the labor organization's file number issued by the corporation commission.

(viii) For a candidate committee, a candidate's contribution of personal monies.

(ix) All loans, including identification of any endorser or guarantor other than a candidate's spouse, and the contribution amount endorsed or guaranteed by each.

(x) Rebates and refunds.

(xi) Interest on committee monies.

(xii) The fair market value of in-kind contributions received.

(xiii) Extensions of credit that remain outstanding, including identification of the creditor and the purpose of the extension.

(b) The aggregate amount of contributions from all individuals whose contributions do not exceed fifty dollars for the election cycle.

3. An itemized list of all disbursements in excess of two hundred fifty dollars during the reporting period in the following categories, including the recipient, the recipient's address, a description of the disbursement and the amount and date of the disbursement, together with the total of all disbursements in each category:

(a) Disbursements for operating expenses.

(b) Contributions to candidate committees.

(c) Contributions to political action committees.

(d) Contributions to political parties.

(e) Contributions to partnerships.

(f) For a political action committee or political party, contributions to corporations and limited liability companies, including identification of the corporation's or limited liability company's file number issued by the corporation commission.

(g) For a political action committee or political party, contributions to labor organizations, including identification of the labor organization's file number issued by the corporation commission.

(h) Repayment of loans.

(i) Refunds of contributions.

(j) Loans made.

(k) The value of in-kind contributions provided.

(l) Independent expenditures that are made to advocate the election or defeat of a candidate, including identification of the candidate, office sought by the candidate, election date, mode of advertising and distribution or publication date.

(m) Expenditures to advocate the passage or defeat of a ballot measure, including identification of the ballot measure, ballot measure serial number, election date, mode of advertising and distribution or publication date.

(n) Expenditures to advocate for or against the issuance of a recall election order or for the election or defeat of a candidate in a recall election, including identification of the officer to be recalled or candidate supported or opposed, mode of advertising and distribution or publication date.

(o) Any other disbursements or expenditures.

4. The total sum of all receipts and disbursements for the reporting period.

5. A certification by the committee treasurer, issued under penalty of perjury, that the contents of the report are true and correct.

C. FOR THE PURPOSES OF REPORTING UNDER SUBSECTION B OF THIS SECTION:

1. A CONTRIBUTION IS DEEMED TO BE RECEIVED EITHER ON THE DATE THE COMMITTEE KNOWINGLY TAKES POSSESSION OF THE CONTRIBUTION OR THE DATE OF THE CHECK OR CREDIT CARD PAYMENT. FOR AN IN-KIND CONTRIBUTION OF SERVICES, THE

CONTRIBUTION IS DEEMED MADE EITHER ON THE DATE THE SERVICES ARE PERFORMED OR THE DATE THE COMMITTEE RECEIVES THE SERVICES.

2. AN EXPENDITURE OR DISBURSEMENT IS DEEMED MADE EITHER ON THE DATE THE COMMITTEE AUTHORIZES THE MONIES TO BE SPENT OR THE DATE THE MONIES ARE WITHDRAWN FROM THE COMMITTEE'S ACCOUNT. FOR A TRANSACTION BY CHECK, THE EXPENDITURE OR DISBURSEMENT IS DEEMED MADE ON THE DATE THE COMMITTEE SIGNS THE CHECK. FOR A CREDIT CARD TRANSACTION ON PAPER, THE EXPENDITURE OR DISBURSEMENT IS DEEMED MADE ON THE DATE THE COMMITTEE SIGNS THE AUTHORIZATION TO CHARGE THE CREDIT CARD. FOR AN ELECTRONIC TRANSACTION, AN EXPENDITURE OR DISBURSEMENT IS DEEMED MADE ON THE DATE THE COMMITTEE ELECTRONICALLY AUTHORIZES THE CHARGE. FOR AN AGREEMENT TO PURCHASE GOODS OR SERVICES, THE EXPENDITURE OR DISBURSEMENT IS DEEMED MADE EITHER ON THE DATE THE PARTIES ENTER INTO THE AGREEMENT OR THE DATE THE PURCHASE ORDER IS ISSUED.

3. A COMMITTEE MAY RECORD ITS TRANSACTIONS USING ANY OF THE METHODS AUTHORIZED BY THIS SUBSECTION BUT FOR EACH TYPE OF CONTRIBUTION, EXPENDITURE OR DISBURSEMENT MADE OR RECEIVED, THE COMMITTEE SHALL USE A CONSISTENT METHOD OF RECORDING TRANSACTIONS THROUGHOUT THE ELECTION CYCLE.

~~C.~~ D. The amount of an in-kind contribution of services shall be equal to the usual and normal charges for the services on the date ~~received by the committee~~ PERFORMED.

~~D.~~ E. If any receipt or disbursement is earmarked, the committee shall report the identity of the person to whom the receipt or disbursement is earmarked.

~~E.~~ F. Candidate committee reports shall be cumulative for the election cycle to which they relate. Political action committee and political party reports shall be cumulative for a two-year election cycle ending in the year of a statewide general election. If there has been no change during the reporting period in an item listed in the immediately preceding report, only the amount need be carried forward.

~~F.~~ G. For a political action committee that receives individual contributions through a payroll deduction plan, that committee is not required to separately itemize each contribution received from the contributor during the reporting period. In lieu of itemization, the committee may report all of the following:

1. The aggregate amount of contributions received from the contributor through the payroll deduction plan during the reporting period.

2. The individual's identity.

3. The amount deducted per pay period.

~~G.~~ H. An entity that makes independent expenditures or ballot measure expenditures in excess of one thousand dollars during a reporting period shall file an expenditure report with the filing officer for the applicable reporting period. Expenditure reports shall identify the candidate or ballot measure supported or opposed, office sought by the candidate, if any,

election date, mode of advertising and first date of publication, display, delivery or broadcast of the advertisement.

Sec. 5. Retroactivity

Section 16-922, Arizona Revised Statutes, as added by Laws 2011, chapter 149, section 1 and this act, applies retroactively to ninety days before the date of the 2016 primary election.

Sec. 6. Effective date

Sections 1, 3 and 4 of this act are effective from and after the last day for filing a preelection campaign finance report for the November 2016 general election as prescribed by section 16-913, subsection B, paragraph 2, Arizona Revised Statutes, as amended by Laws 2012, chapter 257, section 2, chapter 290, section 1 and chapter 361, section 18.

APPROVED BY THE GOVERNOR MAY 18, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House February 25, 20 16

by the following vote: 36 Ayes,

24 Nays, 0 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate May 6, 2016

by the following vote: 17 Ayes,

11 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20__

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____ day of

_____

at _____ o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2296

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 6, 2016,

by the following vote: 31 Ayes,

25 Nays, 4 Not Voting

Speaker of the House

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7th day of May, 2016

at 1:18 o'clock A. M.

Secretary to the Governor

Approved this 18th day of

May, 2016,

at 9:26 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18th day of May, 2016

at 12:05 o'clock P M.

Secretary of State

~~H.B. 2123~~
HB. 2296