

AZ Clean Elections Commission Report for LWV from Rivko Knox  
Meeting July 20, 2017

As always, the numbered items below do not reflect the agenda (available on the CCEC website) because they omit the non-substantive items (e.g., call to order, minutes etc.) & also reflect the order in which items were actually discussed.

**1. Present.** Only four of the five Commissioners were present along with staff to include, of course, the Executive Director, Tom Collins.

**2. AZ Administrative Office of the Courts & the Clean Elections Surcharge.** An attorney from a private law firm who is representing the CCEC in instances in which the AG's office might have a conflict of interest, e.g., two clients with a potential conflict, spoke briefly about some potential administrative order/s issued by the Office of the Courts regarding how clients can pay off fines and penalties/surcharges (which by law provide some small portion of the CCEC's funding) to include waiving the surcharge, period & replacing it with community service. There is currently not enough information about whether this order will go into effect, if so, when & to whom it will apply. Thus no one can determine if or what kind of an impact it might have on funds going to the CCEC. The attorney said he would investigate & keep the CCEC informed.

**3. The On-Going Saga of the Conflict between the CCEC & the Governor's Regulatory Review Council (GRRC).** Some quick background for those who may have forgotten. a) The CCEC continues to maintain that the GRRC's power does not extend to it because it is not part of the Executive Branch but rather was independently created by an initiative; b) However, to avoid conflict, in the past the CCEC has submitted the five year required reports covering the process by which the CCEC adopts rules & what new rules it did adopt. The first two reports (five years apart) were accepted without concern. c) The most recent one, by now submitted about 18-24 months ago, keeps being rejected, sometime with comments, sometimes with none; d) The CCEC keeps submitted revisions trying to address the GRRC's concerns, when they are stated, to no avail. Today, Collins reported that the most recent comments from GRRC on the CCEC's most recent report & the CCEC's responses, to include about open meetings, were published in the SOS's Administrative Register on June 30. Further it does appear that so far the GRRC has not repealed any of the CCEC's rules. Further Collins said that the initial attorney appointed to represent the GRRC in this matter is no longer doing that; instead a new attorney has been appointed, Tim LaSota, who has previously filed law suits against the CCEC. Collins also said that the GRRC is now contradicting it's own statements made in 2016 re the CCEC's report. Collins spoke at some length & referred to a memo he had written that was available on the CCEC's website as part of the package of materials to be discussed today. That memo reflected some of Frank Thurwald's statements (he is the GRRC's newest member) that appear to reflect a view that the GRRC's authority should be vastly expanded, i.e., rather than just ensuring that rules adopted by state agencies/boards etc. comply with the required process, the GRRC should start directly holding meetings with 'stakeholders' & thus begin to directly impact on the substance of rules.i.e., thus policy making. Further, Thurwald defined 'stakeholders' as 'professional associations.' Thus Collins said, it appears that the concerns that

GRRC has raised with CCEC are not just aimed at the CCEC per se but are part of a wider process of considering a role revision for itself. Collins also said that at the moment, the CCEC does not appear on the agenda of any future GRRC meetings. At this point, the CCEC went into Executive Session to receive advice from it's attorney. When the meeting convened, no further information was provided.

**NOTE:** At the end of this email, I have copied some important language on the GRRC website. [www.grrc.gov/council](http://www.grrc.gov/council). I would also recommend that you review the backgrounds of all the GRRC members, especially that of Mr. Thurwald, who is listed as the public interest member. Please note that all the members are appointed by either the Governor, the Speaker of the House or the President of the Senate.

**4. Executive Director's Report.** Collins introduced a new staff member (who came from the the Secretary of State's Office). He then spoke about: a) upcoming elections in various cities in August; b) a July meeting with the Municipal Clerks Association; c) a new app that it is beginning to be used called "chat box," which is installed on a phone, talks to you & responds to your questions about elections (he thinks it's 'cool'!!); c) training workshops for Clean Candidates that are being scheduled; d) the Roundtable attended by about 100 people – the second one & the first to include people not from the public sector (city/town/county election officials); e) the resignation of Representative Rubalcava (which Collins pointed out does not moot the CCEC's investigation of his Clean funding); & f) finally his own concerns about a recent AG opinion saying that if a public employee/official uses a private device to conduct public business, it should not be made public. He thinks it runs counter to prior court decisions. This may result in the CCEC adopting it's own rules regarding public business conducted on private devices.

**5. Votes on the Adoption of New Rules Relating to: A) Clean Candidates Purchasing Services from Political Parties & b) Payment by Clean Candidates to Consultants.**

**NOTE:** These two topics were open to on-line/paper public comments & also drew a lot of passionate comments from various people at the last two CCEC meetings reflecting quite diverse opinions. The CCEC had provided three options regarding A, i.e., a) that no Clean funds could be spent by purchasing any thing/services from a political party; ) that Clean funds could only be used to purchase very limited things/services from a political party; or c) that Clean funds could be used to purchase anything/service from a political party with appropriate documentation.

There was only one public comment at this meeting about A by Jim Barton representing the AZ Democratic Party. Three of the Commissioners spoke before the vote, which was as follows. Item A. By a vote of 3 in favor, one opposed, option C was adopted. Item B: The vote was unanimous to adopt the rule as written. Collins pointed out that B will go into effect immediately because it was adopted unanimously; Item A will go into effect on January 1, 2018 because the vote was NOT unanimous. Collins also pointed out that the CCEC will soon be voting on another proposed revised rule, i.e., to audit all Clean candidates vs. just those selected on a random sample basis.

**6. General Public Comments.** I spoke about the Roundtable, thanked staff on an excellent event & for including the League, and focused especially on the value of interacting with diverse people from different parts of the state.

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**Information from the Governor’s Regulatory Commission’s Web Site, [www.grrc.az.gov](http://www.grrc.az.gov)**

*Governor Doug Ducey - Regulation Rollback*

*“Regulation Rollback” is a strategic step in Governor Ducey’s ongoing work to make Arizona the best state in the nation to open a new business or to expand an existing one. “Regulation Rollback” is an innovative new service that allows individuals across the state to recommend ways to improve or eliminate outdated regulations directly to the governor’s office by submitting their ideas through [www.azgovernor.gov/redtape](http://www.azgovernor.gov/redtape).*

*Six of the seven Council members are appointed by the Governor for three-year terms. The members, who serve at the pleasure of the Governor, meet at least once a month. The seventh Council member and Chair of the Council is the Director or Assistant Director of the Department of Administration. The Governor is required to appoint at least one member to represent the public interest, one member to represent the business community, one member from a list of three persons submitted by the President of the Senate, and one member from a list of three persons submitted by the Speaker of the House (legislative nominees can not be legislators). At least one member of the Council must be an attorney licensed to practice law in the state.*

### ***Responsibilities of Council Members***

*In 1981, Governor Bruce Babbitt established the Council by Executive Order Number 81-3, as it was determined to be in the public interest “to assure that administrative rules and regulations avoid unnecessary duplication and adverse impact upon the public.” In 1986, the legislature codified the Council in statute (Laws 1986, Ch. 232, § 5). The Council was established primarily for the purpose of providing oversight and administrative efficiency in the rulemaking process for state agencies, boards, and commissions (“agencies”), to ensure consistency and compliance with existing statutes, and to ensure that stakeholders’ interests are considered as a part of the rulemaking process.*

*The vast majority of the matters that come before the Council are proposed rulemakings (A.R.S. § 41-1052), and five-year-review reports, submitted pursuant to A.R.S. § 41-1056(A). Copies of the relevant statutes and rules are included, and a discussion of the Council’s responsibilities on these matters is addressed in this manual. In short, the Council’s primary responsibilities are to:*

- 1. Review and approve or return a rule, preamble, and economic, small business, and consider impact statement (EIS) submitted by an agency (A.R.S. § 41-1052(B));*
- 2. Schedule a periodic review of each agency’s rules and approve or return the agency’s report on its review (A.R.S. § 41-1056(A));*

*3. Ensure that if any agency proposes a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization, the agency shall use a general permit if the facilities, activities or practices in the class are substantially similar in nature (A.R.S. § 41-1037);*

*4. Receive and hear appeals regarding an agency's practice or substantive policy statement (A.R.S. § 41-1033(B));*

*5. Receive and hear appeals regarding the economic, small business and consumer impact statement of an agency's rules (A.R.S. § 41-1056.01(D)); and*

*6. Receive and hear appeals regarding agency delegation agreements (A.R.S. § 41-1081).*