



Clean Elections Act and HB2296 Overview

Clean Elections Act

The Commission has the authority to impose civil penalties for any violation of the Clean Elections Act, A.R.S. § 16-957(B), and the penalties prescribed by A.R.S. § 16-942(B) and Arizona Administrative Code R2-20-109(F)(3) apply to violations of the independent expenditure reporting requirements.

Final Administrative Decision of the Commission,
In re: Legacy Foundation Action Fund, No. 15F-001-CCE at 7.

Court Decisions

- Clean Elections Institute v. Brewer
 - Enforcement of limits and reports are “paramount” duty apart from public financing
- Horne v. Clean Elections Commission
 - “The Commission has authority to investigate and impose penalties for violations of the [Act] by privately funded candidates in accordance with A.R.S. §§ 16-941(B), -942(B), -942(C), -956, and -957.”

Chapter 6

In addition to any other penalties imposed by law, the civil penalty for a violation by or on behalf of any candidate of any reporting requirement imposed by *this chapter*....

Article 1
A.R.S. 16-913 Campaign
finance reports;
reporting of receipts
and disbursements

Article 2
A.R.S 16-941 (D) . . .
any person who
makes independent
expenditures . . .

Rule Amendments 2015

- Purpose
 - Update rules to address new legislative language and address “primary purpose”
 - (Issue that Commission has discussed since 2014)
 - Did not add powers to the Commission.
 - Implements Clean Elections Act
 - No effect on business only entities involved in politics directly.

HB2296

- Companion Bill to larger 1516 (future meeting)
- Changed effective dates to accelerate changes planned for 2017
- Effective August 6th BUT retroactive to June 1
- Principal issue delegates campaign finance enforcement to
 - Federal Internal Revenue Service
 - Arizona Corporation Commission
- Raises Voter Protection Act and other legal issues

Who it intends to affect

- 501(c)(3)
 - Basically, charities and religious institutions
 - Not permitted to make independent expenditures. (risks tax status)
 - Permitted to lobby (incl. spend on initiatives and referenda) up to a limited amount
- 501(c)(4)
 - Social welfare organizations
 - Permitted to make independent expenditures (as long as not primary purpose)
 - Permitted to spend any amount on initiatives and referenda consistent with social welfare purpose
 - This has been the historic tension in Arizona law, which regulates such spending
- 501(c)(6)
 - Business leagues, chambers of commerce

How they would be affected

- 501(c)(3) – most privileged
 - No reports of expenditures or donors
 - No Clean Elections Expenditure Reports.
- 501(c)(4) – more limited privilege
 - No donor reports provided certain filings made with IRS and Corporation Commission
 - Must file Clean Elections Expenditure reports
- 501(c)(6) – same as (c)(4)

Rule Amendments

- Option 1
 - Adopt new limitations into Clean Elections Rules.
 - No Clean Elections Independent Expenditures Reports for charities at all
 - Only Clean Elections Reports for social welfare orgs and other 501c
- Option 2
 - Inform regulated community that HB2296 is not constitutional.
 - Proceed with rules as is. (Other modifications as recommended)
- Option 3
 - Hybrid
 - Acknowledges the legislative action.
 - Makes tax status a serious consideration on enforcement.

Next Steps

- Circulate Option for Public Comment
- Consider Final Rule in at least 60 days
- Retroactivity
- Unanimity



Questions?