



**NOTICE OF PUBLIC MEETING
AND POSSIBLE EXECUTIVE SESSION OF THE
STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION**

Location: **Citizens Clean Elections Commission**
1616 West Adams, Suite 110
Phoenix, Arizona 85007

Date: **Tuesday, February 7, 2017**

Time: **9:30 a. m.**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on February 7, 2017. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at www.livestream.com/cleanelections. Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.

The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on any item listed on the agenda, pursuant to A.R.S. § 38-431.03 (A)(3). The Commission reserves the right at its discretion to address the agenda matters in an order different than outlined below.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Executive Director's Report.
- III. Discussion and Possible Legal Action arising from the Clean Elections Act, surcharges and related criminal and civil penalties, A.R.S. § 12-116.01, and SB 1158.

The Commission may choose to go into executive session on this item for consultation with its attorneys regarding pending or contemplated litigation in order to consider its positions and instruct its attorneys. A.R.S. § 38-431.03(A)(4).

- IV. Public Comment

This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism

V. Adjournment.

This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission's office, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

Dated this 3rd day of February, 2017.

Citizens Clean Elections Commission
Thomas M. Collins, Executive Director

Any person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission at (602) 364-3477. Requests should be made as early as possible to allow time to arrange accommodations.

CITIZENS CLEAN ELECTIONS COMMISSION

EXECUTIVE DIRECTOR REPORT

FEBRUARY 7, 2017

Announcements:

- The public can view Commission meetings live via the internet at www.livestream.com/cleanelections. A link is available on our website.

Legislative Update

HCR 2004 –Clean Elections Repeal; Education Funding

Sponsor – Rep. Leach (bill has been assigned to House Appropriations)

- The bill would place on the November 2018 ballot the question of whether or not to repeal the Clean Elections Act and divert the Clean Elections Fund to the Department of Education to be distributed to school districts and charter schools
- Effect on CCEC – Would eliminate the Clean Elections Act.

HB 2403 –Clean Elections; Contributions Prohibited

Sponsor – Rep. Coleman (bill has not been assigned)

- The bill would prohibit direct or indirect payments to a political party by a participating candidate.
 - Effect on CCEC – Would place participating candidates at a disadvantage when running their campaigns.
- Tom has spoken to Mr. Leach regarding his bill (HCR 2004) and contacted Mr. Coleman regarding his as well (HB 2403). Staff is recommending a review of and possible changes to R2-20-702 during the regular scheduled February meeting to address both Representatives concerns.

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.C.R. 2004

(Reference to printed bill)

1 Strike everything after the resolving clause and insert:

2 "1. Under the power of the referendum, as vested in the Legislature,
3 the following measure, relating to the citizens clean elections act, is
4 enacted to become valid as a law if approved by the voters and on
5 proclamation of the Governor:

6 AN ACT

7 AMENDING TITLE 16, CHAPTER 6, ARTICLE 2, ARIZONA REVISED
8 STATUTES, BY ADDING SECTION 16-940.01; AMENDING SECTIONS
9 16-949, 16-954 AND 16-956, ARIZONA REVISED STATUTES; RELATING
10 TO THE CITIZENS CLEAN ELECTIONS ACT.

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

12 Section 1. Title 16, chapter 6, article 2, Arizona
13 Revised Statutes, is amended by adding section 16-940.01, to
14 read:

15 16-940.01. Findings and intent

16 A. CURRENT LAW IMPOSES A TEN PERCENT SURCHARGE ON ALL
17 CIVIL AND CRIMINAL FINES AND PENALTIES IN THIS STATE. THE
18 MONIES ARE DEPOSITED IN THE CITIZENS CLEAN ELECTIONS FUND,
19 WHERE IT IS USED PRIMARILY TO FINANCE POLITICIANS' CAMPAIGNS.

20 B. IT IS UNFAIR AND WASTEFUL TO FUNNEL SUBSIDIES TO
21 POLITICIANS WHEN THESE VALUABLE MONIES COULD BE PUT TO BETTER
22 AND MORE EQUITABLE USE IN PUBLIC SCHOOL CLASSROOMS.

23 C. TO THAT END, THIS MEASURE WOULD REQUIRE THAT ALL
24 PROCEEDS COLLECTED FROM THE SURCHARGE AND FROM STATE TAX
25 DESIGNATIONS INSTEAD BE DEPOSITED IN THE CLASSROOM SITE FUND.

1 D. DESPITE HAVING SIGNIFICANT REGULATORY POWERS OVER
2 THIS STATE'S CAMPAIGN FINANCE SYSTEM, WHICH DIRECTLY IMPLICATES
3 CORE FIRST AMENDMENT RIGHTS OF ALL ARIZONANS, THE CITIZENS
4 CLEAN ELECTIONS COMMISSION CURRENTLY IS ONE OF THE ONLY STATE
5 AGENCIES THAT IS EXEMPT FROM KEY PROVISIONS OF THIS STATE'S
6 ADMINISTRATIVE PROCEDURES ACT. THIS EXEMPTION ALLOWS THE
7 CITIZENS CLEAN ELECTIONS COMMISSION TO ISSUE BINDING AND OFTEN
8 BURDENSOME REGULATIONS WITHOUT FOLLOWING IMPORTANT PROCEDURAL
9 SAFEGUARDS, SUCH AS PROVIDING THE PUBLIC WITH NOTICE OF, AND AN
10 ADEQUATE OPPORTUNITY TO PARTICIPATE IN, THE RULEMAKING PROCESS.

11 E. THIS MEASURE WOULD REQUIRE THE CITIZENS CLEAN
12 ELECTIONS COMMISSION TO COMPLY WITH THE SAME PROCESS AND
13 PROCEDURES THAT GOVERN THE RULEMAKING OF MOST OTHER
14 ADMINISTRATIVE AGENCIES IN THIS STATE.

15 Sec. 2. Section 16-949, Arizona Revised Statutes, is
16 amended to read:

17 16-949. Controls on spending from citizens clean
18 elections fund; transfer to classroom
19 site fund

20 A. The commission shall not spend, on all costs incurred
21 under this article during a particular calendar year, more than
22 five dollars times the number of Arizona resident personal
23 income tax returns filed during the previous calendar year.
24 The commission may exceed this limit during a calendar year,
25 provided that it is offset by an equal reduction of the limit
26 during another calendar year during the same four-year period
27 beginning January 1 immediately after a gubernatorial election.

28 B. The commission may use up to ten ~~per cent~~ PERCENT of
29 the amount specified in subsection A of this section for
30 reasonable and necessary expenses of administration and
31 enforcement, including the activities specified in section
32 16-956, subsection A, paragraphs 3 through 7 and subsections B

1 and C. Any portion of the ten ~~per cent~~ PERCENT not used for
2 this purpose shall remain in the fund.

3 C. The commission may apply up to ten ~~per cent~~ PERCENT
4 of the amount specified in subsection A of this section for
5 reasonable and necessary expenses associated with public
6 education regarding participation as a candidate or a
7 contributor, or regarding the functions, purpose and technical
8 aspects of the CLEAN ELECTIONS act. Reasonable and necessary
9 expenditures made pursuant to section 16-956 are not included
10 in this subsection.

11 D. The commission may spend monies in the fund for the
12 reasonable and necessary expenses to implement the CLEAN
13 ELECTIONS act but shall not use monies in the fund to promote
14 the benefits of the clean elections act. Expenditures made
15 pursuant to subsection C of this section or in section 16-956,
16 subsection A are deemed not to constitute promoting the
17 benefits of the clean elections act. Expenditures pursuant to
18 this subsection shall not be included in the limits prescribed
19 in subsection C of this section.

20 E. The state treasurer shall administer a citizens clean
21 elections fund ~~from which costs incurred under this article~~
22 ~~shall be paid.~~ ON DECEMBER 31 EACH YEAR, THE STATE TREASURER
23 SHALL TRANSFER ALL MONIES IN THE FUND THAT ARE RECEIVED FROM
24 THE DEPARTMENT OF REVENUE AND ALL FINES AND PENALTIES RECEIVED
25 PURSUANT TO THIS ARTICLE AND DEPOSIT THOSE MONIES IN THE
26 CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977. The auditor
27 general shall review the monies in, payments into and
28 expenditures from the fund no less often than every four years.

1 decreases in the following parameters, based on the
2 commission's projections of collections and expenses for the
3 CITIZENS CLEAN ELECTIONS fund, including that the CITIZENS
4 CLEAN ELECTIONS fund will provide monies under section 16-951
5 as a fraction of the amounts there specified.

6 D. If the commission cannot provide participating
7 candidates with all monies specified under sections 16-951 and
8 16-952, as decreased by any announcement pursuant to subsection
9 C of this section, the commission shall allocate any reductions
10 in payments proportionately among candidates entitled to monies
11 and shall declare an emergency. ~~Upon~~ ON declaration of an
12 emergency, a participating candidate may accept private
13 contributions to bring the total monies received by the
14 candidate from the CITIZENS CLEAN ELECTIONS fund and from such
15 private contributions up to the adjusted spending limits, as
16 decreased by any announcement made pursuant to subsection C of
17 this section.

18 E. NOTWITHSTANDING ANY OTHER LAW, BEGINNING JANUARY 1,
19 2019, ANY MONIES IN THE CITIZENS CLEAN ELECTIONS FUND THAT ARE
20 RECEIVED FROM FINES AND PENALTIES COLLECTED PURSUANT TO SECTION
21 12-116.01, RECEIVED FROM THE DEPARTMENT OF REVENUE OR RECEIVED
22 FROM APPROPRIATIONS SHALL BE DEPOSITED IN THE CLASSROOM SITE
23 FUND ESTABLISHED BY SECTION 15-977.

24 Sec. 4. Section 16-956, Arizona Revised Statutes, is
25 amended to read:

26 16-956. Voter education and enforcement duties

27 A. The commission shall:

28 1. Develop a procedure for publishing a document or
29 section of a document having a space of predefined size for a
30 message chosen by each candidate. For the document that is
31 delivered before the primary election, the document shall
32 contain the names of every candidate for every statewide and
33 legislative district office in that primary election without

1 regard to whether the candidate is a participating candidate or
2 a nonparticipating candidate. For the document that is
3 delivered before the general election, the document shall
4 contain the names of every candidate for every statewide and
5 legislative district office in that general election without
6 regard to whether the candidate is a participating candidate or
7 a nonparticipating candidate. The commission shall deliver one
8 copy of each document to every household that contains a
9 registered voter. For the document that is delivered before
10 the primary election, the delivery may be made over a period of
11 days but shall be sent in time to be delivered to households
12 before the earliest date for receipt by registered voters of
13 any requested early ballots for the primary election. The
14 commission may deliver the second document over a period of
15 days but shall send the second document in order to be
16 delivered to households before the earliest date for receipt by
17 registered voters of any requested early ballots for the
18 general election. The primary election and general election
19 documents published by the commission shall comply with all of
20 the following:

21 (a) For any candidate who does not submit a message
22 pursuant to this paragraph, the document shall include with the
23 candidate's listing the words "no statement submitted".

24 (b) The document shall have printed on its cover the
25 words "citizens clean elections commission voter education
26 guide" and the words "primary election" or "general election"
27 and the applicable year. The document shall also contain at or
28 near the bottom of the document cover in type that is no larger
29 than one-half the size of the type used for "citizens clean
30 elections commission voter education guide" the words "paid for
31 by the citizens clean elections fund".

32 (c) In order to prevent voter confusion, the document
33 shall be easily distinguishable from the publicity pamphlet

1 that is required to be produced by the secretary of state
2 pursuant to section 19-123.

3 2. Sponsor debates among candidates, in such manner as
4 determined by the commission. The commission shall require
5 participating candidates to attend and participate in debates
6 and may specify by rule penalties for nonparticipation. The
7 commission shall invite and permit nonparticipating candidates
8 to participate in debates.

9 3. Prescribe forms for reports, statements, notices and
10 other documents required by this article. The commission shall
11 not require a candidate to use a reporting system other than
12 the reporting system jointly approved by the commission and the
13 office of the secretary of state.

14 4. Prepare and publish instructions setting forth
15 methods of bookkeeping and preservation of records to
16 facilitate compliance with this article and explaining the
17 duties of persons and committees under this article.

18 5. Produce a yearly report describing the commission's
19 activities and any recommendations for changes of law,
20 administration or funding amounts and accounting for monies in
21 the fund.

22 6. Adopt rules to implement the reporting requirements
23 of section 16-958, subsections D and E.

24 7. Enforce this article, ensure that ~~money~~ MONIES from
25 the fund ~~is~~ ARE placed in candidate campaign accounts or
26 otherwise spent as specified in this article and not otherwise,
27 monitor reports filed pursuant to this chapter and financial
28 records of candidates as needed and ensure that ~~money~~ MONIES
29 required by this article to be paid to the fund is deposited in
30 the fund. The commission shall not take action on any external
31 complaint that is filed more than ninety days after the
32 postelection report is filed or ninety days after the

1 completion of the canvass of the election to which the
2 complaint relates, whichever is later.

3 B. The commission may subpoena witnesses, compel their
4 attendance and testimony, administer oaths and affirmations,
5 take evidence and require by subpoena the production of any
6 books, papers, records or other items material to the
7 performance of the commission's duties or the exercise of its
8 powers.

9 C. The commission may adopt rules to carry out the
10 purposes of this article and to govern procedures of the
11 commission. ~~Commission rule making is exempt from title 41,
12 chapter 6, article 3. The commission shall propose and adopt
13 rules in public meetings, with at least sixty days allowed for
14 interested parties to comment after the rules are proposed.
15 The commission shall also file a notice of exempt rule making
16 and the proposed rule in the format prescribed in section
17 41-1022 with the secretary of state's office for publication in
18 the Arizona administrative register. After consideration of
19 the comments received in the sixty day comment period, the
20 commission may adopt the rule in an open meeting. Any rules
21 given final approval in an open meeting shall be filed in the
22 format prescribed in section 41-1022 with the secretary of
23 state's office for publication in the Arizona administrative
24 register. Any rules adopted by the commission shall only be
25 applied prospectively from the date the rule was adopted.~~

26 D. Rules adopted by the commission are not effective
27 until January 1 in the year following the adoption of the rule,
28 except that rules adopted by unanimous vote of the commission
29 may be made immediately effective and enforceable.

30 E. If, in the view of the commission, the action of a
31 particular candidate or committee requires immediate change to
32 a commission rule, a unanimous vote of the commission is
33 required. Any rule change made pursuant to this subsection

1 that is enacted with less than a unanimous vote takes effect
2 for the next election cycle.

3 F. Based on the results of the elections in any
4 quadrennial election after 2002, and within six months after
5 such election, the commission may adopt rules changing the
6 number of qualifying contributions required for any office from
7 those listed in section 16-950, subsection D, ~~by~~ by no more than
8 twenty ~~per cent~~ PERCENT of the number applicable for the
9 preceding election.

10 Sec. 5. Severability

11 If a provision of this act or its application to any
12 person or circumstance is held invalid, the invalidity does not
13 affect other provisions or applications of the act that can be
14 given effect without the invalid provision or application, and
15 to this end the provisions of this act are severable.

16 Sec. 6. Short title

17 This act shall be known and may be cited as the "Clean
18 Elections Reform Act".

19 2. The Secretary of State shall submit this proposition to the
20 voters at the next general election as provided by article IV, part 1,
21 section 1, Constitution of Arizona."

22 Amend title to conform

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