

**CITY OF TUCSON
ELECTIONS**

**REPORTING
INDEPENDENT
EXPENDITURES**



UPDATED 3/11/2011

INDEPENDENT EXPENDITURES

Updated City of Tucson Law

On March 8, 2011, the Mayor and Council adopted Ordinance 10885 amending the reporting requirements for independent expenditures. These requirements are intended to supplement, and not supersede or conflict with, any state law regarding the reporting of independent expenditures in City elections. These requirements apply to both individuals and political committees.

Tucson Code Chapter 12, Article VIII Reporting of Independent Expenditures

Sec. 12-110 Supplemental reporting of independent expenditures in City elections.

(a) *Statement of purposes.* This section's purposes are to:

- (1) Allow voters access to information about who supports or opposes candidates financially;
- (2) Allow the City Clerk to more effectively distinguish independent expenditures from expenditures made by candidates or candidates' campaign committees; and
- (3) Deter corruption and the appearance of corruption.

This section is intended to supplement, and not supersede or conflict with, any state law regarding the reporting of independent expenditures in City elections.

Corporations, limited liability companies and labor organizations making independent expenditures relating to the City of Tucson candidates must comply with the provisions of A.R.S. section 16-914.02.

(b) *Original report.* Any person who makes independent expenditures related to a particular city office cumulatively exceeding one thousand dollars (\$1000.00) during a campaign period, shall file reports with the City Clerk in accordance with subsection (e) so indicating, identifying the office and the candidate or group of candidates whose election or defeat is being advocated, and stating whether the person is advocating election or advocating defeat.

(c) *Supplemental report.* Any person who has previously reached the dollar amount specified in subsection (b) for filing an original report shall file a supplemental report in accordance with subsections (b) and (e) each time previously unreported independent expenditures specified by subsection (b) exceed one thousand dollars (\$1,000.00).

(d) *Exception for independent expenditures previously reported.* Subsections (b) and (c) shall not apply to any independent expenditure already reported by the person making the independent expenditure pursuant to the requirements of A.R.S. sections 16-913 and 16-915, and the amount of that already reported independent expenditure shall not be used in calculating the trigger amounts for original and supplemental reports set forth in subsections (b) and (c).

(e) *Time of filing.* Any person who must file an original report pursuant to subsection (b), or who must file a supplemental report for previously unreported amounts pursuant to subsection (c), shall file the report with the City Clerk not later than one day after making the expenditure, excluding Saturdays, Sundays and other legal holidays.

(f) *Additional notification.* In addition to the reporting required in subsections (b) and (c), individuals and political committees must also comply with A.R.S. section 16-917 and any successor statutes.

(g) *Contents of report.* Any report by a person under this section shall, in addition to providing all other required information, identify any persons who have contributed five hundred dollars (\$500.00) or more to the committee.

(h) *Penalty for failure to file required report.* Any person who fails to file a report, or provide information, required by this section shall be subject to a civil penalty of up to three times the total amount of independent expenditures not reported. In the case of a political committee, the civil penalty may be assessed against the political committee's chairperson, its treasurer, or both. All civil penalties paid under this subsection shall be deposited in the election campaign account established under Tucson Charter Chapter XVI, Subchapter B, Section 6.

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(i) *Determining whether expenditure is for communication that expressly advocates the election or defeat of a clearly identified candidate.* In determining whether an expenditure should have been reported pursuant to subsections (b) and (c), the City Clerk shall consider whether the expenditure was for a communication that expressly advocates the election or defeat of a clearly identified candidate and was not made with prior consent, cooperation, or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. In determining that a communication expressly advocates the election or defeat of a candidate, rather than a communication that advocates in favor of or against an issue, the City Clerk will consider the following three (3) components:

- (1) Even if it is not presented in the clearest, most explicit language, speech is express if its message is unmistakable, unambiguous, and suggestive of only one plausible meaning.
- (2) Speech may only be termed advocacy if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act.
- (3) It must be clear what action is advocated. Speech cannot be considered express advocacy of the election or defeat of a clearly identified candidate when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action. If any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to this section's disclosure requirements.

(j) *Severability.* If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(k) *Definitions.* As used in this section:

"Business day" means any day that is not a Saturday, Sunday, or holiday.

"Campaign period" means the entire time from the date on which an individual becomes a candidate until the election or defeat of the candidate. The campaign period ends on the date the mayor and council canvass and declare the results of the election at which the candidate is elected or defeated.

"Independent expenditure" has the same meaning as in A.R.S. section 16-901.

"Person" includes a political committee as defined in A.R.S. section 16-901, as well as a natural person.

QUESTIONS?

Contact the City Clerk's Office

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