

**To: The Honorable Ken Chevront**

**May 1, 2000**

**Re: Fund-raising by Legislators For  
Political Organizations During Regular  
Session**

**Arizona House of Representatives**

**I00-008  
R00-011**

### **Question Presented**

You have asked whether, during a regular session, a State legislator may conduct fund-raising activities for a political organization that has been established pursuant to A.R.S. §§ 16-823 and -901(20).

### **Summary Answers**

An analysis of all the statutes governing fund-raising activities demonstrates that members of the Legislature may participate in fund-raising activities for political organizations during a regular session, as long as the fund-raising complies with all limitations and requirements of Arizona's campaign finance laws, A.R.S. §§ 16-901 through -961. The prohibitions in A.R.S. § 41-1234.01 against lobbyists making campaign contributions to and lobbyists soliciting campaign contributions for legislators during the regular session do not limit fund-raising for political organizations, provided that the contributions are not earmarked for legislators in violation of A.R.S. § 16-907(B).

### **Background**

A political organization is "an organization that is formally affiliated with and recognized by a political party including a district committee organized pursuant to § 16-823."<sup>(1)</sup> A.R.S. § 16-901(20). A political party is "the state committee as prescribed by § 16-825 or the county committee as prescribed by § 16-821 of an organization that meets the requirements for recognition as a political party pursuant to § 16-801 or § 16-804, subsection A." A.R.S. § 16-901(21). Under Arizona's campaign finance laws, a political organization is a specific type of political committee. A.R.S. § 16-901(19)(h). Thus, a political organization is a district party committee or some other political committee that is formally affiliated with a state or county committee of a political party. As a political committee, a political organization is subject to the requirements of Title 16, chapter 6, article 1 (A.R.S. §§ 16-901 through -925) concerning campaign contribution limits and disclosure requirements. Although political organizations are affiliated with political parties, political organizations are subject to some contribution limits that do not apply to political parties. See A.R.S. § 16-905(A)(2), (3), (B), (C), (E) (exempting political parties but not political organizations from certain contribution limits). A candidate's campaign committee is another type of political committee, which is subject to the same campaign finance laws. A.R.S. § 16-901(19)(a). Any candidate who receives contributions or makes expenditures of more than \$500 in connection with a campaign is required to designate a political committee for each election to serve as the candidate's campaign committee. A.R.S. § 16-903(A).

The laws regulating lobbyists prohibit them from making contributions to legislators during the regular session.<sup>(2)</sup> A.R.S. § 41-1234.01. This prohibition became law in 1992 as part of a comprehensive overhaul of the laws regulating lobbyists. See 1991 Ariz. Sess Laws, 3<sup>rd</sup> S.S., ch. 2. Specifically, A.R.S. § 41-1234.01 provides as follows:

A. While registered under this article [Title 41, ch. 7, art. 8.1], a principal, public body, lobbyist, designated public lobbyist or authorized public lobbyist shall not make or promise to make a campaign contribution to or solicit or promise to solicit campaign contributions for:

1. A member of the legislature when the legislature is in regular session.
2. The governor when the legislature is in regular session or when regular session legislation is pending executive approval or veto.

B. Subsection A only prohibits campaign contributions by principals, lobbyists, designated public lobbyists or authorized public lobbyists and solicitation of campaign contributions by principals or lobbyists during anytime the legislature is in regular session but does not prohibit principals or lobbyists from raising monies for any other purpose during the regular session of the legislature.

A violation of this prohibition is a class 1 misdemeanor. A.R.S. § 41-1237(A).

### **Analysis**

There is no law restricting legislators from raising contributions for political organizations during a legislative session or between sessions. The *only* limitation on campaign fund-raising during a regular session of the Legislature is in A.R.S. § 41-1234.01. That provision only precludes contributions to members of the Legislature when the Legislature is in regular session. There is no mention of contributions or fund-raising for political organizations or political parties. To the contrary, aside from contributions to actual members, lobbyists may "rais[e] monies for any other purpose during the regular session of the [L]egislature." A.R.S. § 41-1234.01(B).

The clear language of a statute is given its usual meaning, unless impossible or absurd consequences result. *Herberman v. Bergstrom*, 168 Ariz. 587, 589, 816 P.2d 244, 246 (App. 1991). The prohibition in A.R.S. § 41-1234.01 is limited to lobbyists making campaign contributions to legislators and soliciting contributions for legislators during regular session. Thus, the prohibition in A.R.S. § 41-1234.01 clearly applies to legislators' candidate campaign committees. However, it does not prevent legislators from soliciting contributions for political organizations during the regular session.

Although contributions to political organizations are generally outside the limitations in A.R.S. § 41-1234.01, contributions earmarked for legislators, in violation of A.R.S. § 16-907(B), can violate A.R.S. § 41-1234.01. Under A.R.S. § 16-907(B), "[e]xcept for a contribution to a candidate's campaign committee, an individual or political committee shall not give and a political party or other political committee shall not accept an earmarked contribution."<sup>(3)</sup> A.R.S. § 16-907(B). Contributions from a lobbyist to a political committee during the regular session that are designated for a specific member or members of the Legislature in violation of A.R.S. § 16-907(B) would also violate A.R.S. § 41-1234.01. In that situation, although the contribution was to a political committee, because it is specifically directed to a member of the Legislature, it is prohibited by A.R.S. § 41-1234.01.

### **Conclusion**

A legislator may conduct fund-raising activities for political organizations during session as long as the fund-raising activities comply with all campaign finance laws. The prohibitions set forth in A.R.S. § 41-1234.01 do not apply to fund-raising for political organizations unless such contributions are earmarked for legislators in violation of A.R.S. § 16-907(B).

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1. Under A.R.S. § 16-823, a political party "entitled . . . to representation on the ballot may establish a district party committee for any legislative district." A district party committee consists of "precinct committeemen residing in the district and elected pursuant to § 16-821." A.R.S. § 16-823(B).
2. For simplicity, the term "lobbyists" as used in this Opinion refers to registered lobbyists, their principals, designated public lobbyists and authorized public lobbyists as defined in A.R.S. § 41-1231. In addition, the prohibition in A.R.S. 41-1234.01 also applies to the Governor "when the legislature is in regular session or when regular session legislation is pending executive approval or veto." A.R.S. § 41-1234.01(A)(2).
3. A contribution is "earmarked" if there is "a designation, instruction or encumbrance that results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's campaign committee." A.R.S. § 16-901(6).

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