



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

BRUCE E. BABBITT  
ATTORNEY GENERAL

February 14, 1978

Honorable Larry Bahill  
Minority Leader  
Arizona House of Representatives  
House Wing - State Capitol  
Phoenix, Arizona 85007

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Re: 78- 26 (R77-275)

Dear Representative Bahill:

Your letter of August 18, 1977, requested our opinion on the following question:

Is the circulation, and/or signing of a recall petition of a state officer, by a state employee not exempted by A.R.S. § 41-771, considered to be participation in a political campaign and thereby prohibited by A.R.S. § 41-772?

A.R.S. § 41-772 restricts certain political activities by state employees. Subsection B provides:

No employee or member of the personnel board may be a member of any national, state or local committee of a political party, or an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take any part in the management or affairs of any political party or in any political campaign, except that any employee may express his opinion, attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues, and cast his vote.

As noted in Attorney General Opinion No. 71-1 (November 24, 1970), the apparent purpose of this statutory restriction of public employees' political activity is to insure that such employees can fully and properly discharge their duties and responsibilities in state service with impartiality, free from any taint of favoritism, prejudice, personal political ambition or partisan demands.

Representative  
Larry Bahill

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February 14, 1978

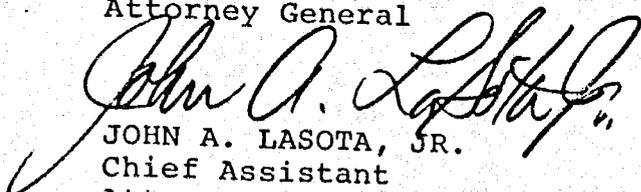
We will first deal with the issue of a state employee who circulates a recall petition of a state officer. In our opinion, such activity constitutes taking part in a political campaign, which A.R.S. § 41-772 prohibits. Such an employee is taking affirmative action for the purpose of influencing public opinion and ultimately, a public election, and this is the essence of a "political campaign." We do not read the proscription of A.R.S. § 41-772.B. as being limited to a "political campaign" of an individual running for election for a specific office. The words themselves suggest a much broader scope, including any organized effort to promote a cause or secure some result through the political process. See State ex rel. Green v. City of Cleveland, 33 N.E.2d 35 (Ohio App. 1940).

However, we think A.R.S. § 41-772 does not prohibit a state employee from signing a recall petition. The proscription of A.R.S. § 41-772 is aimed at active political activity by state employees. Subsection B. of that provision expressly reserves the right to vote to state employees, and to express an opinion. The signing of a petition is highly analogous to voting, i.e., it is a written expression of an opinion about a person which has legal and political significance. This fact, coupled with the well established doctrine that governmental restrictions on first amendment freedoms should not be broader than is necessary to accomplish a constitutionally permitted goal, persuades us that A.R.S. § 41-772 does not proscribe signing recall petitions. See Huerta v. Flood, 103 Ariz. 608, 611 (1968).

If you have any questions concerning the foregoing, please contact us.

Sincerely,

BRUCE E. BABBITT  
Attorney General

  
JOHN A. LASOTA, JR.  
Chief Assistant  
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