



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

July 15, 1988

The Honorable Bev Hermon
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I88-080 (R88-041)

Dear Representative Hermon:

You have asked for an opinion regarding the effect of A.R.S. § 16-905 on political parties and their affiliates. We address each of your questions separately.

You first ask whether A.R.S. § 16-905(A)(2) and (B)(2) would apply to contributions from political parties as well as to those from single campaign committees.^{1/} A.R.S. § 16-905(A) and (B) provide:

A. For an office other than a statewide office, a contributor shall not give and a

^{1/}Political parties are specifically included in the definition of "campaign committee" provided in A.R.S. § 16-901, as follows:

In this chapter, unless the context otherwise requires:

1. "Campaign committee" includes the state central committee or state committee of any political party, any county, city, town or precinct committee of any political party or of a candidate, and any association or combination of persons organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state, notwithstanding that the association or combination of persons may be part of a larger association or combination of persons not primarily organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state.

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 2

candidate shall not accept contributions of more than:

1. Two hundred dollars from an individual.
2. One thousand dollars from a single campaign committee.

B. For a statewide office, a contributor shall not give and a candidate shall not accept contributions of more than:

1. Five hundred dollars from an individual.
2. Two thousand dollars from a single campaign committee.

(Emphasis added.)

As you noted in your request, the only provision of A.R.S. § 16-905 that provides an exemption for political parties is A.R.S. § 16-905(D). This subsection provides only that contributions to political parties are exempt from the \$2,000 limit on contributions by any individual to all candidates and campaign committees. Expression of one item of a class indicates the intent to exclude other items of the same class that are not enumerated in a statute. Pima County v. Heinfeld, 134 Ariz. 133, 134, 654 P.2d 281, 282 (1982).

We therefore conclude that political parties in making contributions to candidates, are subject to the contribution limitations applicable to campaign committees including A.R.S. § 16-905(A)(2) and (B)(2).^{2/} See Ariz. Atty. Gen. Op. I88-020 at 1-3.

You next ask whether the A.R.S. § 16-905(O)(3) definition of "political party" as a nationally recognized organization includes not only an organization such as the Arizona Republican Party, but also organizations such as the Maricopa County Republican Party and the District 27 Republican Party.

^{2/}If, however, a political party failed to meet the requirements of A.R.S. § 16-905(G) to qualify for the higher campaign committee contribution limits of A.R.S. § 16-905(A)(2) and (B)(2) (\$1000/\$2500), the individual contribution limits of A.R.S. § 16-905(A)(1) and (B)(1) (\$200/\$500) would apply.

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 3

The term "political party" is defined in A.R.S. § 16-905(O)(3) to mean ". . . a nationally recognized organization which nominates a candidate whose name appears on a ballot as a candidate of the organization."

In Ariz.Atty.Gen.Op. I87-039, we concluded that this definition, in connection with the political party exemption found in A.R.S. § 16-905(D), cannot constitutionally be limited to "nationally recognized" organizations. We further concluded that this limitation ". . . should be disregarded and the political party exemption construed to apply to all organizations which qualify as political parties for ballot representation under state law. (See A.R.S. § 16-801 to -806)." Ariz.Atty.Gen.Op. I87-039 at page 10 (emphasis added).

A.R.S. § 16-905(D) provides, in part, "[c]ontributions to political parties are exempt from the limitations of this subsection." Only those organizations qualifying for continued representation on the ballot or as a new party qualify for this exemption. County and district committees are established by those political parties entitled to ballot representation. See A.R.S. §§ 16-821, 16-823. These organizations, however, do not separately qualify for ballot representation. Therefore, because these committees do not fit the definition of "political party," they are not entitled to the A.R.S. § 16-905(D) exemption.

You also ask how organizations such as the Phoenix Republican Women or the East Valley Young Republicans are classified for purposes of A.R.S. § 16-905. If the organization is "organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state," it would be required to register as a campaign committee. A.R.S. § 16-901(1).

In the context of making contributions to candidates, it must be determined whether each campaign committee is bound by the individual or the campaign committee limits of A.R.S. § 16-905. A.R.S. § 16-905(G) provides:

Only campaign committees that received funds from five hundred or more individuals in amounts of ten dollars or more in the one year period preceding the last closing reporting

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 4

date may make contributions to candidates under subsection A, paragraph 2 and subsection B, paragraph 2. The secretary of state shall obtain information necessary to make the determination that a committee meets the requirements of this subsection and shall provide written certification of the fact to the committee. A candidate shall not accept a contribution pursuant to this subsection unless accompanied by a copy of the certification. All campaign committees that do not meet the requirements of this subsection are subject to the individual campaign contribution limits of subsection A, paragraph 1 and subsection B, paragraph 1.

If an organization meets the qualifications of A.R.S. § 16-905(G), it may make contributions to candidates up to the limits provided for campaign committees in A.R.S. § 16-905(A)(2)(\$1000) and (B)(2)(\$2500). If an organization fails to comply with A.R.S. § 16-905(G), it will be held to the individual contribution limits (\$200/\$500). See A.R.S. § 16-905(A)(1), (B)(1).

Your fourth question is whether the furnishing of campaign headquarters to several candidates within a legislative district by various organizations would be considered a contribution to those candidates.

A.R.S. § 16-905 limits contributions to candidates or their campaign committees. The meaning of "contribution" for purposes of this section is set forth as follows:

"Contribution" means money or the fair market value of anything directly or indirectly given or loaned for the purpose of influencing an election of a candidate in this state except:

(a) Uncompensated personal services performed by volunteer campaign workers.

(b) Personal travel expenses incurred by an individual without direct or indirect reimbursement.

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 5

(c) Food and beverages donated by an individual and not exceeding one hundred dollars in value during a calendar year.

Contribution includes any expenditure made by an individual or campaign committee with the cooperation or consultation of a candidate, or in concert with or at the request or suggestion of a candidate.

A.R.S. § 16-905(O)(2) (emphasis added). Providing the funds to a candidate or campaign committee for the purpose of maintaining a campaign headquarters or directly paying the expenses of operating the campaign headquarters, would constitute a contribution within the meaning of A.R.S. § 16-905(O)(2). The fair market rental value of premises that are loaned to a candidate would also constitute a contribution.

Contributions by campaign committees to candidates for a non-statewide office would then be subject to either the individual or the campaign committee limitations of A.R.S. § 16-905(A), depending upon whether they meet the criteria of A.R.S. § 16-905(G). Each campaign committee must report all direct or indirect expenditures it makes for maintaining the candidate's campaign headquarters, (as part of this total), or its fair market value, if use of the premises is donated.

Finally, you have asked whether the First Amendment is violated if these contribution limitations would effectively prevent this method of financing campaign headquarters. The United States Supreme Court has recognized that restricting the amounts that individuals or groups may contribute to candidates entails only a marginal restriction on First Amendment freedoms. Buckley v. Valeo, 424 U.S. 1, 14-21, 96 S.Ct. 612, 632-635, 46 L.Ed.2d 659, 684-689 (1976). Therefore, we conclude that even if the contribution limitations provisions were to have the effect of prohibiting the furnishing of campaign headquarters to candidates by campaign committees, the First Amendment nevertheless would not be violated.

Sincerely,



BOB CORBIN
Attorney General



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

July 15, 1988

The Honorable Bev Hermon
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I88-080 (R88-041)

Dear Representative Hermon:

You have asked for an opinion regarding the effect of A.R.S. § 16-905 on political parties and their affiliates. We address each of your questions separately.

You first ask whether A.R.S. § 16-905(A)(2) and (B)(2) would apply to contributions from political parties as well as to those from single campaign committees.^{1/} A.R.S. § 16-905(A) and (B) provide:

A. For an office other than a statewide office, a contributor shall not give and a

^{1/}Political parties are specifically included in the definition of "campaign committee" provided in A.R.S. § 16-901, as follows:

In this chapter, unless the context otherwise requires:

1. "Campaign committee" includes the state central committee or state committee of any political party, any county, city, town or precinct committee of any political party or of a candidate, and any association or combination of persons organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state, notwithstanding that the association or combination of persons may be part of a larger association or combination of persons not primarily organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state.

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 2

candidate shall not accept contributions of more than:

1. Two hundred dollars from an individual.
2. One thousand dollars from a single campaign committee.

B. For a statewide office, a contributor shall not give and a candidate shall not accept contributions of more than:

1. Five hundred dollars from an individual.
2. Two thousand dollars from a single campaign committee.

(Emphasis added.)

As you noted in your request, the only provision of A.R.S. § 16-905 that provides an exemption for political parties is A.R.S. § 16-905(D). This subsection provides only that contributions to political parties are exempt from the \$2,000 limit on contributions by any individual to all candidates and campaign committees. Expression of one item of a class indicates the intent to exclude other items of the same class that are not enumerated in a statute. Pima County v. Heinfeld, 134 Ariz. 133, 134, 654 P.2d 281, 282 (1982).

We therefore conclude that political parties in making contributions to candidates, are subject to the contribution limitations applicable to campaign committees including A.R.S. § 16-905(A)(2) and (B)(2).^{2/} See Ariz. Atty. Gen. Op. I88-020 at 1-3.

You next ask whether the A.R.S. § 16-905(O)(3) definition of "political party" as a nationally recognized organization includes not only an organization such as the Arizona Republican Party, but also organizations such as the Maricopa County Republican Party and the District 27 Republican Party.

^{2/}If, however, a political party failed to meet the requirements of A.R.S. § 16-905(G) to qualify for the higher campaign committee contribution limits of A.R.S. § 16-905(A)(2) and (B)(2) (\$1000/\$2500), the individual contribution limits of A.R.S. § 16-905(A)(1) and (B)(1) (\$200/\$500) would apply.

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 3

The term "political party" is defined in A.R.S. § 16-905(O)(3) to mean ". . . a nationally recognized organization which nominates a candidate whose name appears on a ballot as a candidate of the organization."

In Ariz. Atty. Gen. Op. I87-039, we concluded that this definition, in connection with the political party exemption found in A.R.S. § 16-905(D), cannot constitutionally be limited to "nationally recognized" organizations. We further concluded that this limitation ". . . should be disregarded and the political party exemption construed to apply to all organizations which qualify as political parties for ballot representation under state law. (See A.R.S. § 16-801 to -806)." Ariz. Atty. Gen. Op. I87-039 at page 10 (emphasis added).

A.R.S. § 16-905(D) provides, in part, "[c]ontributions to political parties are exempt from the limitations of this subsection." Only those organizations qualifying for continued representation on the ballot or as a new party qualify for this exemption. County and district committees are established by those political parties entitled to ballot representation. See A.R.S. §§ 16-821, 16-823. These organizations, however, do not separately qualify for ballot representation. Therefore, because these committees do not fit the definition of "political party," they are not entitled to the A.R.S. § 16-905(D) exemption.

You also ask how organizations such as the Phoenix Republican Women or the East Valley Young Republicans are classified for purposes of A.R.S. § 16-905. If the organization is "organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state," it would be required to register as a campaign committee. A.R.S. § 16-901(1).

In the context of making contributions to candidates, it must be determined whether each campaign committee is bound by the individual or the campaign committee limits of A.R.S. § 16-905. A.R.S. § 16-905(G) provides:

Only campaign committees that received funds from five hundred or more individuals in amounts of ten dollars or more in the one year period preceding the last closing reporting

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 4

date may make contributions to candidates under subsection A, paragraph 2 and subsection B, paragraph 2. The secretary of state shall obtain information necessary to make the determination that a committee meets the requirements of this subsection and shall provide written certification of the fact to the committee. A candidate shall not accept a contribution pursuant to this subsection unless accompanied by a copy of the certification. All campaign committees that do not meet the requirements of this subsection are subject to the individual campaign contribution limits of subsection A, paragraph 1 and subsection B, paragraph 1.

If an organization meets the qualifications of A.R.S. § 16-905(G), it may make contributions to candidates up to the limits provided for campaign committees in A.R.S. § 16-905(A)(2)(\$1000) and (B)(2)(\$2500). If an organization fails to comply with A.R.S. § 16-905(G), it will be held to the individual contribution limits (\$200/\$500). See A.R.S. § 16-905(A)(1), (B)(1).

Your fourth question is whether the furnishing of campaign headquarters to several candidates within a legislative district by various organizations would be considered a contribution to those candidates.

A.R.S. § 16-905 limits contributions to candidates or their campaign committees. The meaning of "contribution" for purposes of this section is set forth as follows:

"Contribution" means money or the fair market value of anything directly or indirectly given or loaned for the purpose of influencing an election of a candidate in this state except:

(a) Uncompensated personal services performed by volunteer campaign workers.

(b) Personal travel expenses incurred by an individual without direct or indirect reimbursement.

The Honorable Bev Hermon
July 15, 1988
I88-080
Page 5

(c) Food and beverages donated by an individual and not exceeding one hundred dollars in value during a calendar year.

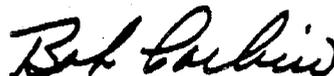
Contribution includes any expenditure made by an individual or campaign committee with the cooperation or consultation of a candidate, or in concert with or at the request or suggestion of a candidate.

A.R.S. § 16-905(O)(2) (emphasis added). Providing the funds to a candidate or campaign committee for the purpose of maintaining a campaign headquarters or directly paying the expenses of operating the campaign headquarters, would constitute a contribution within the meaning of A.R.S. § 16-905(O)(2). The fair market rental value of premises that are loaned to a candidate would also constitute a contribution.

Contributions by campaign committees to candidates for a non-statewide office would then be subject to either the individual or the campaign committee limitations of A.R.S. § 16-905(A), depending upon whether they meet the criteria of A.R.S. § 16-905(G). Each campaign committee must report all direct or indirect expenditures it makes for maintaining the candidate's campaign headquarters, (as part of this total), or its fair market value, if use of the premises is donated.

Finally, you have asked whether the First Amendment is violated if these contribution limitations would effectively prevent this method of financing campaign headquarters. The United States Supreme Court has recognized that restricting the amounts that individuals or groups may contribute to candidates entails only a marginal restriction on First Amendment freedoms. Buckley v. Valeo, 424 U.S. 1, 14-21, 96 S.Ct. 612, 632-635, 46 L.Ed.2d 659, 684-689 (1976). Therefore, we conclude that even if the contribution limitations provisions were to have the effect of prohibiting the furnishing of campaign headquarters to candidates by campaign committees, the First Amendment nevertheless would not be violated.

Sincerely,



BOB CORBIN
Attorney General