



Arizona Court of Appeals, Division I

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COURT OF APPEALS ISSUES DECISION IN CLEAN ELECTIONS CASE

Phoenix, AZ – The Arizona Court of Appeals has ruled in favor of several Petitioners, including the Arizona Citizens Clean Elections Commission, in a lawsuit challenging House Bill 2593, legislation that changed campaign contribution limits for candidates for statewide and legislative offices from limits established in the Citizens Clean Elections Act, an initiative measure approved by voters in 1998. The court held the provisions of House Bill 2593 that changed these limits were ineffective and the Clean Elections Act limits for those offices remained in effect.

The Clean Elections Act created a public campaign finance system and also restricted how much money a contributor could give to a candidate for statewide and legislative office who did not participate in that system (“non-participating candidate”) each election cycle, the aggregate amount a non-participating candidate could accept from political committees in an election cycle, and the aggregate amount an individual could give on an annual basis to all non-participating candidates and political committees that give to such candidates. House Bill 2593 increased the amount of money a contributor could give to a non-

participating candidate running for a statewide or legislative office and eliminated the aggregate restrictions.

Petitioners sued the Secretary of State to enjoin his enforcement and implementation of House Bill 2593, contending it conflicted with the Clean Elections Act. The Secretary, joined by the President of the Senate and Speaker of the House of Representative, argued the Clean Elections Act merely established a formula for the calculation of the campaign contribution limits which could be adjusted by the Legislature. Additionally, the President and Speaker argued that if the Clean Elections Act limits governed, they were too low, in violation of the Arizona Constitution and the First Amendment.

The superior court ruled the Clean Elections Act merely established a formula for determining the limits and denied Petitioners' request for a preliminary injunction. The court did not make any specific findings regarding the constitutional arguments raised by the President and Speaker.

The Court of Appeals vacated the superior court's decision. After examining the language of the Clean Elections Act, as well as the Act's context, background, and purpose, the court determined the voters had not adopted "a mere formula that would allow the Legislature to easily amend" the limits. The court concluded the Clean Elections Act fixed campaign contribution limits for candidates for statewide and legislative office as of 1998. The court recognized, however, as Petitioners had conceded, the Clean Election Act limits could be adjusted for inflation by the Secretary of State and modified by the Legislature if it complied with the Voter Protection Act ("VPA"). The VPA bars the Legislature from amending or superseding a voter-approved initiative unless the proposed legislation "furtheres the purposes" of the initiative and is approved by a three-

fourths vote in the House of Representatives and Senate. It was undisputed that neither the House nor the Senate passed House Bill 2593 by a three-fourths vote.

Because the superior court had failed to make any findings of fact or conclusions of law regarding several issues, including the constitutionality of the Clean Elections Act limits, the Court of Appeals remanded the case to the superior court for it to reconsider Petitioners' requests for declaratory and injunctive relief. It further instructed the superior court to consider the arguments and evidence presented by the parties regarding the constitutionality of the campaign contributions limits for candidates for statewide and legislative office under the Clean Elections Act.

To reinstate the status quo pending the superior court's decision on remand, the court also preliminarily enjoined the Secretary from enforcing or implementing the provisions of House Bill 2593 applicable to non-participating candidates for statewide and legislative office. The court took this action because the Clean Election Act limits have been in place for several years, incumbents and challengers have relied on those limits in deciding whether to run with public or private money, and a preliminary injunction until the superior court issues its decision on remand will maintain this long-standing status quo.

Judge Patricia K. Norris wrote the decision for the court, with Presiding Judge Randall M. Howe and Judge Patricia A. Orozco concurring. The full opinion can be found on the web at

<http://www.azcourts.gov/Portals/0/OpinionFiles/Div1/2013/1CA-SA13-0239.docx.pdf>.