



MEMORANDUM

Date: July 6, 2018

To: The Honorable Chair and Members
Pima County Board of Supervisors
Presiding Judge, Superior Court
Elected Officials
Appointing Authorities

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to read "CHH", is written over the printed name "C.H. Huckelberry".

Re: **No Use of County Resources to Influence Outcome of an Election**

On July 3, 2018, the Board of Supervisors approved placing Proposition 463 on the November 6, 2018 ballot for Regional Road Repair. Attached is the required notice of the election and the call for submitting arguments for and against the proposition, which must be submitted to the Elections Department between July 9 and July 24. Additional information can be found at www.pima.gov/roadrepairbonds.

A.R.S. 11-410 prohibits the use of county resources, including employees, volunteers and committees, to influence elections. Attached are three handouts that are intended to provide guidance for what County employees, County volunteers and County Committees can and cannot do with respect to providing information and using County resources. Please provide this information to your employees. Since this election has to do with the authorization of bond funding for road repair, the two committee's that are most related are the Department of Transportation's Transportation Advisory Committee and the Bond Advisory Committee, both of which will be notified.

Elected Officials must also comply with this statute and can contact Deputy County Attorney Dan Jurkowitz at 724-5700 with questions.

CHH/dr

Attachments

c: Dan Jurkowitz, Deputy County Attorney

Call for Arguments Notice

NOTICE OF SPECIAL BOND ELECTION FOR REGIONAL ROAD REPAIR TO BE HELD IN
AND FOR
PIMA COUNTY, ARIZONA ON NOVEMBER 6, 2018
AND
SOLICITATION OF ARGUMENTS FOR AND AGAINST THE PROPOSITION

TO THE QUALIFIED ELECTORS OF PIMA COUNTY, ARIZONA:

A special bond election will be held on November 6, 2018 (the "Election").

The purpose of the Election is to submit a Proposition to the qualified electors of the County as to whether the County should be authorized to issue County bonds in addition to those authorized at previous elections.

The proposition to be submitted is as follows:

Proposition No. 463

Regional Road Reconstruction, Preservation and Repair

Shall Pima County, Arizona be authorized to issue and sell general obligation bonds of the County in an aggregate principal amount not exceeding \$430,000,000 for the purpose of reconstructing, repairing and preserving existing public roads and highways in the County, including paying all expenses properly incidental thereto and to the issuance of such bonds? The bonds are to be issued in one or more series, maturing not less than one year (or portion thereof) and not more than 10 years following the date of issuance of each such series, bearing interest at a rate or rates not higher than 6 percent per annum and sold at prices that may include a premium not greater than that permitted by law. As required by A.R.S. § 35-454(C), the County gives notice that the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service on the bonds.

The polls will be open during the period from 6:00 A.M. to 7:00 P.M., inclusive, on the day of the election.

Any qualified elector may vote by early ballot in the manner provided by law. Official early balloting materials may be requested via the County Recorder's website at www.recorder.pima.gov, or by mail at 240 N. Stone Avenue, Tucson, Arizona; or by telephone at 520-724-4330, prior to 5:00 P.M. on October 26, 2018. Any elector prevented from voting at the polls as a result of an emergency occurring between 5:00 P.M. on October 26, 2018 and 5:00 P.M. on November 5, 2018 should contact the County Recorder for directions as to voting.

The County hereby solicits the submission of written arguments of no more than 300 words in length for and against the proposition for inclusion in the informational pamphlet to be distributed to registered voters in connection with the special election, as required by law. Each argument shall contain the name of each person sponsoring it. Such arguments must be submitted to the Pima County Election Department, 6550 South Country Club Road, Tucson AZ 85756, and must be received no earlier than 8:00 a.m. on July 9, 2018 and no later than 5:00 p.m. on July 24, 2018. A \$100 fee payment in the form of cash, check or money order payable to the Pima County Elections Department, must accompany each argument submitted to offset a portion of the printing and mailing costs associated with the informational pamphlet.

The person or persons submitting the argument(s) shall identify themselves by giving their residence or mailing address and phone number, which information will not be printed in the informational pamphlet.

If you have any questions about the foregoing, please contact the Elections Department of the County at (520) 724-6830 or mary.martinson@pima.gov.

For information about the Proposition, visit the County's website at www.pima.gov/roadrepairbonds, send an email to bondinfo@pima.gov, or call 520-724-8149.

DATED July 3, 2018.

PIMA COUNTY, ARIZONA
By: Julie Castañeda
Clerk, Board of Supervisors

County Employees

Pima County Employees May Not Use County Resources to Influence the Outcome of an Election

What Pima County Employees MAY NOT do:

It is unlawful to use Pima County resources or employees to influence the outcome of an election (ARS § 11-410). Pima County “resources” are defined to include money, facilities, vehicles, postage, telecommunications, computer hardware and software (email), web pages, personnel (on County time), equipment, materials, buildings or any other thing of value.

From a practical standpoint, employees need to remember that, while they are on County time, they may not advocate for or against a ballot measure. If a County employee receives campaign information in a Pima County e-mail account or mailbox from an outside sender, such information cannot be passed on to others, including outside recipients. The County Attorney’s office will regularly review the County’s bond election web site and official county correspondence to ensure compliance with the statute.

An employee can face discipline, up to and including dismissal, for engaging in prohibited political activity [Merit System Rule 12.1(C)(12)]. Additionally, under ARS § 11-410(F), an employee who misuses County resources could be personally liable for a civil penalty of up to \$5,000 and the amount of the resources misused.

What Pima County Employees MAY do:

County employees on County time may provide factual information to members of the public about the election or particular projects that would be funded, report factually on actions of the Board of Supervisors, and they can remind members of the public to vote but may not tell them how to vote.

County employees on County time may answer questions from a factual perspective about the impact to Pima County depending on the election’s outcome. Those facts, however, may not be presented in a manner that is seen as skewed or biased toward a particular point of view.

County employees not on County time may exercise their free speech rights, advocate for or against a ballot measure and become involved in campaigns.

11-410. Use of county resources or employees to influence elections; prohibition; civil penalty; definitions

A. A county shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a county may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a county from reporting on official actions of the county board of supervisors.

B. The prohibition on the use of public resources to influence the outcome of bond, budget override and other tax-related elections includes the use of county-focused promotional expenditures that occur after an election is called and through election day. This prohibition does not include routine county communications.

C. This section does not prohibit the use of county resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

D. Employees of a county shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the alleged violation occurred for the purpose of complying with this section.

F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the county budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. County funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the county whose funds were misused.

G. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

H. For the purposes of this section:

1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. "Misused funds" means county monies or resources used unlawfully as proscribed by this section.

4. "Routine county communications" means messages or advertisements that are germane to the functions of the county and that maintain the frequency, scope and distribution consistent with past practices or are necessary for public safety.

County Committees and Committee Members

Pima County Committees and Committee Members May Not Use County Resources to Influence the Outcome of an Election

What Pima County Committees and Committee Members MAY NOT do:

It is unlawful to use Pima County resources or employees, which include Pima County committees and committee members, to influence the outcome of an election (ARS § 11-410). Pima County “resources” are defined to include money, facilities, vehicles, postage, telecommunications, computer hardware and software (email), web pages, personnel (in this case committees and committee members), equipment, materials, buildings or any other thing of value.

From a practical standpoint, committees as a whole may not take actions to advocate for or against a ballot measure. Committee members need to remember that while they are participating in a committee meeting, they may not advocate for or against a ballot measure. This includes wearing advocacy buttons or stickers, or bringing other advocacy materials to the meeting. In addition, on their personal time (i.e. outside of committee meetings), committee members may not represent that they are advocating on behalf of Pima County or on behalf of the Pima County committee to which they are appointed.

Under ARS § 11-410(F), a committee member who violates this statute could be personally liable for a civil penalty of up to \$5,000 and the amount of the resources misused.

What Pima County Committee Members MAY do:

Committee members, on their personal time (i.e. outside of a committee meeting) may exercise their free speech rights, advocate for or against a ballot measure and become involved in campaigns, but may not represent that they are advocating on behalf of Pima County or on behalf of the Pima County committee to which they are appointed.

11-410. Use of county resources or employees to influence elections; prohibition; civil penalty; definitions

A. A county shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a county may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a county from reporting on official actions of the county board of supervisors.

B. The prohibition on the use of public resources to influence the outcome of bond, budget override and other tax-related elections includes the use of county-focused promotional expenditures that occur after an election is called and through election day. This prohibition does not include routine county communications.

C. This section does not prohibit the use of county resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

D. Employees of a county shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the alleged violation occurred for the purpose of complying with this section.

F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the county budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. County funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the county whose funds were misused.

G. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

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1. "Government-sponsored forum or debate" means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

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County Volunteers

Pima County Volunteers May Not Use County Resources to Influence the Outcome of an Election

What Pima County Volunteers MAY NOT do:

It is unlawful to use Pima County resources or employees, which include Pima County volunteers, to influence the outcome of an election (ARS § 11-410). Pima County “resources” are defined to include money, facilities, vehicles, postage, telecommunications, computer hardware and software (email), web pages, personnel (in this case Pima County volunteers), equipment, materials, buildings or any other thing of value.

From a practical standpoint, volunteers need to remember that while they are in the act of volunteering at a county facility, for a county event, or on behalf of the county, they may not advocate for or against a ballot measure or use County resources to do so. This includes wearing advocacy buttons or stickers, or having other advocacy materials while in the act of volunteering. In addition, on their personal time (i.e. when not in the act of volunteering for the County or a County department), volunteers may not represent that they are advocating on behalf of Pima County or on behalf of the Pima County department for which they are a volunteer.

Under ARS § 11-410(F), a volunteer who violates this statute could be personally liable for a civil penalty of up to \$5,000 and the amount of the resources misused.

What Pima County Volunteers MAY do:

Pima County volunteers, on their personal time (i.e. when not in the act of volunteering for the County or a County department) may exercise their free speech rights, advocate for or against a ballot measure and become involved in campaigns, but may not represent that they are advocating on behalf of Pima County or on behalf of the Pima County department for which they are appointed volunteer.

11-410. Use of county resources or employees to influence elections; prohibition; civil penalty; definitions

A. A county shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a county may distribute informational pamphlets on a proposed bond election as provided in section 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a county from reporting on official actions of the county board of supervisors.

B. The prohibition on the use of public resources to influence the outcome of bond, budget override and other tax-related elections includes the use of county-focused promotional expenditures that occur after an election is called and through election day. This prohibition does not include routine county communications.

C. This section does not prohibit the use of county resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

D. Employees of a county shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the alleged violation occurred for the purpose of complying with this section.

F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the county budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. County funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the county whose funds were misused.

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