

REFERENCE TITLE: **paycheck deductions; public employers**

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

## **HB 2438**

Introduced by  
Representatives Olson, Allen, Barton, Borrelli, Fann, Livingston,  
Petersen, Pierce, Seel, Smith, Stevens: Farnsworth, Goodale, Gowan, Gray,  
Kavanagh, Mesnard, Mitchell, Montenegro, Pratt, Shope, Thorpe, Townsend,  
Senator Shooter

**AN ACT**

**AMENDING SECTION 23-361.02, ARIZONA REVISED STATUTES; RELATING TO PAYMENT OF WAGES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 23-361.02, Arizona Revised Statutes, is amended to  
3 read:  
4 23-361.02. Paycheck deductions; authorization; civil penalty;  
5 definition  
6 A. For deductions after October 1, ~~2011~~ 2013, a public ~~or private~~  
7 employer in this state shall not deduct any THIRD PARTY payment from an  
8 employee's paycheck ~~for political purposes~~ unless the employee annually  
9 provides ADVANCE EXPRESS written or electronic authorization to the employer  
10 for the deduction.  
11 ~~B. If a deduction is made from an employee's paycheck for multiple~~  
12 ~~purposes after October 1, 2011, the employer shall obtain a statement from~~  
13 ~~each entity to which the deductions are paid that indicates the payment is~~  
14 ~~not used for political purposes or a statement that indicates the maximum~~  
15 ~~percentage of the payment that is used for political purposes. The employer~~  
16 ~~shall not deduct any payment beyond that specified for nonpolitical purposes~~  
17 ~~without the annual written or electronic permission of the employee.~~  
18 ~~C. B. Within ninety days after the effective date of this section,~~  
19 The attorney general shall adopt rules that describe the acceptable forms of  
20 employee authorization and entity statements under this section.  
21 ~~D. C. If an A PUBLIC~~ employer knowingly deducts payments in violation  
22 of subsection A of this section ~~or an entity provides an inaccurate statement~~  
23 ~~under this section~~, the ~~respective~~ employer ~~or entity~~ is subject to a civil  
24 penalty of at least ten thousand dollars for each violation. The attorney  
25 general shall impose and collect the civil penalties under this subsection  
26 and shall deposit, pursuant to sections 35-146 and 35-147, all civil  
27 penalties collected pursuant to this section in the state general fund.  
28 ~~E. D. This section does not apply to any of the following:~~  
29 ~~1. A single deduction for nonpolitical purposes.~~  
30 ~~2. Deductions for savings or charitable contributions.~~  
31 ~~3. 1. Deductions for employee health care, retiree or RECOUPMENT OF~~  
32 ~~welfare benefits OR RETIREE BENEFITS PURSUANT TO A PENSION OR OTHER BENEFIT~~  
33 ~~PLAN THAT IS ESTABLISHED TO PROVIDE EMPLOYEES OR THEIR FAMILIES WITH HEALTH~~  
34 ~~CARE OR RETIREMENT BENEFITS AS AN ELEMENT OF PUBLIC EMPLOYEE COMPENSATION.~~  
35 ~~4. 2. Deductions for state, local or federal taxes.~~  
36 ~~5. 3. Deductions for contributions to a separate segregated fund~~  
37 ~~pursuant to 2 United States Code section 441b(b) or section 16-920,~~  
38 ~~subsection A, paragraph 3.~~  
39 ~~6. 4. Any deduction otherwise required by law, IF THE LAW DOES NOT~~  
40 ~~APPROVE OR IMPLEMENT CONTRACTS OR MEMORANDA OF UNDERSTANDING WITH EMPLOYEE~~  
41 ~~ORGANIZATIONS AND ADVANCE NOTICE OF THE DEDUCTION IS GIVEN AT LEAST ONCE~~  
42 ~~ANNUALLY.~~  
43 ~~F. E. If an employee has authorized a deduction from the employee's~~  
44 ~~paycheck under this section and the employee resigns membership in the~~  
45 ~~association or organization for which the deduction was authorized, the~~

1 employee's authorization for the deduction is rescinded upon the employer's  
2 receipt from the employee of written notice of the resignation. The employer  
3 shall have one pay period to process the rescission.

4 ~~G. F. This section does not preempt any federal law.~~

5 ~~H. For the purposes of this section, employee does not include any~~  
6 ~~public safety employee, including a peace officer, firefighter, corrections~~  
7 ~~officer, probation officer or surveillance officer, who is employed by this~~  
8 ~~state or a political subdivision of this state.~~

9 ~~I. For the purposes of this section, "political purposes" means~~  
10 ~~supporting or opposing any candidate for public office, political party,~~  
11 ~~referendum, initiative, political issue advocacy, political action committee~~  
12 ~~or other similar group.~~

13 G. FOR THE PURPOSES OF THIS SECTION, "PUBLIC EMPLOYER" MEANS ANY  
14 ENTITY THAT PRIMARILY RELIES ON TAX REVENUES TO SUSTAIN ITS OPERATIONS.

15 Sec. 2. Short title

16 This act may be cited as the "Protect Arizona Employees' Paychecks  
17 Act".

18 Sec. 3. Severability

19 If any provision of this act or its application to any person or  
20 circumstance is held invalid, the invalidity shall not affect other  
21 provisions or applications of this act that can be given effect without the  
22 invalid provision or application, and to this end the provisions of this act  
23 are severable.

24 Sec. 4. Emergency

25 This act is an emergency measure that is necessary to preserve the  
26 public peace, health or safety and is operative immediately as provided by  
27 law.