

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 318
SENATE BILL 1521

AN ACT

AMENDING SECTIONS 38-612 AND 38-1106, ARIZONA REVISED STATUTES; RELATING TO
PUBLIC OFFICERS AND EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-612, Arizona Revised Statutes, is amended to
3 read:

4 38-612. Administration of payroll salary deductions

5 A. There shall be no payroll salary deductions from the compensation
6 of state officers or employees except as specifically authorized by federal
7 law or regulation or by a statute of this state. ~~No AN~~ administrative agency
8 of this state may NOT authorize any other deduction.

9 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, REDUCTIONS TO
10 RETROACTIVE PAYROLL COMPENSATION ARE AUTHORIZED PURSUANT TO SECTION 38-1106,
11 SUBSECTION J, PARAGRAPH 5.

12 ~~B-~~ C. In addition to those payroll salary deductions required by
13 federal law or regulation or by statute, state officers or employees may
14 authorize deductions to be made from their salaries or wages for the payment
15 of:

16 1. Premiums on any health benefits, disability plans or group life
17 plans provided for by statute and any existing insurance programs already
18 provided by payroll deduction.

19 2. Shares or obligations to any state or federally chartered credit
20 union established primarily for the purpose of serving state officers and
21 employees and their families.

22 3. Dues in a recognized association ~~comprised~~ COMPOSED principally of
23 employees and former employees of agencies of this state, subject to the
24 following criteria:

25 (a) When ~~comprised~~ COMPOSED of at least one thousand state employees
26 other than employees of the state universities, the department of public
27 safety and academic personnel of the Arizona state schools for the deaf and
28 the blind.

29 (b) When ~~comprised~~ COMPOSED of at least twenty-five ~~per cent~~ PERCENT
30 of the academic personnel or of the nonacademic employees of any state
31 university.

32 (c) When ~~comprised~~ COMPOSED of at least twenty-five ~~per cent~~ PERCENT
33 of the academic personnel of the Arizona state schools for the deaf and the
34 blind.

35 (d) When ~~comprised~~ COMPOSED of at least ~~five hundred~~ FOUR HUNDRED
36 state employees who are certified as peace officers by the Arizona peace
37 officer standards and training board established by section 41-1821.

38 (e) WHEN COMPOSED OF A COMBINED TOTAL OF AT LEAST EIGHT HUNDRED STATE
39 EMPLOYEES DESCRIBED IN SUBDIVISION (d) OF THIS PARAGRAPH, STATE EMPLOYEES OF
40 THE STATE DEPARTMENT OF CORRECTIONS AND STATE EMPLOYEES WHO ARE LAW
41 ENFORCEMENT OFFICERS.

42 4. Deferred compensation or tax sheltered annuity salary reductions
43 when made under approved plans.

44 5. Federal savings bond plans.

1 6. Recurrent fees, charges or other payments payable to a state agency
2 under a collection plan approved by the director of the department of
3 administration.

4 7. Contributions made to a charitable organization:

5 (a) Organized and operated exclusively for charitable purposes and
6 selected by the presidents of the state universities. Employees of the state
7 universities shall be advised by form of the charitable organizations to
8 which ~~they~~ THE EMPLOYEES may contribute through payroll salary deductions.
9 The advisory provided under this subdivision shall be substantially similar
10 to the following and prominently printed:

11 "You may contribute to any charitable organization registered under
12 internal revenue code section 501(c)(3), tax exempt status.

13
14 _____
 Charitable organization name"

15 This subdivision applies only to academic personnel and nonacademic
16 employees of the state universities.

17 (b) Organized and operated exclusively for charitable purposes,
18 provided a fund drive by such an organization shall be applicable to all
19 state agencies except the state universities covered under subdivision (a) of
20 this paragraph and no state officer or employee of state agencies subject to
21 this subdivision may authorize more than one deduction for charitable
22 purposes to be in effect at the same time. This subdivision applies to all
23 state agencies except the universities covered under subdivision (a) of this
24 paragraph.

25 8. Contributions made for the purpose of contributing to a fund
26 raising campaign for a university or a club for faculty or staff, or both,
27 which is recognized by the university president and authorized by the Arizona
28 board of regents. This paragraph applies only to academic personnel and
29 nonacademic employees of the state universities.

30 9. Charges payable for transportation expenses pursuant to section
31 41-710.01.

32 10. Payments ordered by courts of competent jurisdiction within this
33 state.

34 11. Automobile or homeowner's insurance premiums.

35 12. Premiums for the following ~~state-sponsored~~ STATE-SPONSORED group
36 benefits that are established primarily for the purpose of serving state
37 officers and employees and their families:

38 (a) Long-term care insurance.

39 (b) Critical care insurance.

40 (c) Prepaid legal services.

41 (d) Identity theft protection services.

42 13. A computer system as defined in section 13-2301 for personal use.

43 ~~C~~ D. In order for the department of administration to establish and
44 maintain a dues deduction pursuant to subsection ~~B~~ C, paragraph 3 of this
45 section, the department of administration may establish and maintain the
46 deduction without the appropriation of any additional monies or technological

1 improvements. The department of administration shall track all personnel
2 hours dedicated to dues deduction. The department of administration may
3 charge a fee to a recognized association that qualifies under subsection
4 ~~B- C~~, paragraph 3 of this section for establishing the automatic dues
5 deduction and anytime changes are needed in the automatic dues deduction
6 system as a result of an increase or decrease in association dues. If the
7 membership criteria of a recognized association falls below the criteria set
8 forth in subsection ~~B- C~~, paragraph 3 of this section, the recognized
9 association shall be on probation for one year. If the membership of a
10 recognized association falls below the criteria set forth in subsection ~~B- C~~,
11 paragraph 3 of this section for more than one year, or if the members of the
12 association engage in a work slowdown or work stoppage, the dues deduction
13 authorized by this section shall immediately be discontinued.

14 ~~D-~~ E. For those state officers and employees under payroll systems
15 ~~which~~ THAT are under the direction of the director of the department of
16 administration, the director shall provide for the administration of payroll
17 deductions for the purposes set forth in this section. For all other state
18 officers and employees and for persons receiving allowances or benefits under
19 other state payroll and retirement systems, the appropriate state officer
20 shall provide for such administration of payroll deductions. Such
21 administration shall operate without cost or contribution from the state
22 other than the incidental expense of making the deductions and remittances to
23 the payees. If any payee requests additional services, the director of the
24 department of administration or any other appropriate state officer may
25 require payment for the additional cost of providing such services.

26 ~~E-~~ F. As a means of readily identifying the employee from whom
27 payroll deductions are to be made, the state officer administering payroll
28 deductions may request an employee to enter such employee's social security
29 identification number on the payroll deduction authorization. Such number
30 shall not be used for any other purpose.

31 ~~F-~~ G. The state, the director of the department of administration or
32 any other appropriate state officer shall be relieved of any liability to
33 employees authorizing deductions or organizations receiving deductions that
34 may result from authorizations pursuant to this section.

35 Sec. 2. Section 38-1106, Arizona Revised Statutes, is amended to read:

36 38-1106. Appeal of disciplinary actions; transcripts; change of
37 hearing officer or administrative law judge; burden
38 of proof; exception

39 A. In any appeal of a disciplinary action by a law enforcement
40 officer, the parties shall cooperate with each other, act in good faith and
41 exchange copies of all relevant documents and a list of all witnesses
42 pursuant to the following time periods and requirements:

43 1. Within fourteen calendar days after the employer's receipt of a
44 written request from the law enforcement officer for a copy of the
45 investigative file that is accompanied by a copy of the filed notice of
46 appeal, the employer shall provide a complete copy of the investigative file

1 as well as the names and contact information for all persons interviewed
2 during the course of the investigation.

3 2. No later than fourteen calendar days before the appeal hearing, the
4 parties shall produce and serve on every party the following information:

5 (a) The name of each witness whom the disclosing party expects to call
6 at the appeal hearing, with a designation of the subject matter on which each
7 witness might be called to testify. A witness may decline an interview. The
8 parties shall not interfere with any decision of a witness regarding whether
9 to be interviewed. An employer shall not discipline, retaliate against or
10 threaten to retaliate against any witness for agreeing to be interviewed or
11 for testifying or providing evidence in the appeal.

12 (b) The name and contact information of each person who has given
13 statements, whether written or recorded or signed or unsigned, regarding
14 matters relevant to the notice of discipline and the custodian of the copies
15 of those statements.

16 (c) Copies of any documents that may be introduced at the hearing and
17 that have not previously been disclosed.

18 B. It is unlawful for a person to disseminate information that is
19 disclosed pursuant to subsection A of this section to any person other than
20 the parties to the appeal and their lawful representatives for purposes of
21 the appeal of the disciplinary action. This subsection does not prohibit the
22 use of the information in the hearing or disclosure pursuant to title 39,
23 chapter 1, article 2.

24 C. If a transcript is required in an administrative hearing, the
25 employer shall obtain the transcript and provide a copy to the law
26 enforcement officer within ten calendar days after the employer's receipt of
27 the transcript.

28 D. Failure to comply with the requirements of subsection A or B of
29 this section shall result in the exclusion of the witness, evidence or
30 testimony, unless the failure to comply is because of excusable neglect.

31 E. The employer or the law enforcement officer may seek a
32 determination by the hearing officer, administrative law judge or appeals
33 board hearing the appeal regarding any evidence that the employer or the law
34 enforcement officer believes should not be disclosed pursuant to subsection A
35 of this section because the risk of harm involved in disclosure outweighs any
36 usefulness of the disclosure in the hearing. In determining whether evidence
37 will be disclosed, the hearing officer, administrative law judge or appeals
38 board may perform an in camera review of the evidence and may disclose the
39 material subject to any restriction on the disclosure, including the closing
40 of the hearing or the sealing of the records, that the hearing officer,
41 administrative law judge or appeals board finds necessary under the
42 circumstances.

43 F. In any appeal of a disciplinary action by a law enforcement officer
44 in which a single hearing officer or administrative law judge has been
45 appointed to conduct the appeal hearing, the law enforcement officer or the
46 employer, within ten calendar days after the appointment of the hearing

1 officer or administrative law judge, may request a change of hearing officer
2 or administrative law judge. In cases before the office of administrative
3 hearings or if the employer is a county, city or town, on the first request
4 of a party, the request shall be granted. A city or town with a population
5 of less than sixty-five thousand persons or a county with a population of
6 less than two hundred fifty thousand persons must provide, if necessary to
7 comply with this subsection, for an alternate hearing officer by means of an
8 interagency agreement with another city, town or county. If the law
9 enforcement officer is the party who requested the alternate hearing officer,
10 the law enforcement officer shall reimburse the city, town or county for
11 one-half of any additional expenses incurred by the city, town or county in
12 procuring the alternate hearing officer under the interagency agreement. If
13 an alternate hearing officer is requested by means of an interagency
14 agreement, the hearing officer shall provide to the law enforcement officer
15 or employer the option of continuing the hearing for an additional ten
16 calendar days. Any subsequent requests may be granted only on a showing that
17 a fair and impartial hearing cannot be obtained due to the prejudice of the
18 assigned hearing officer or administrative law judge. The supervisor or
19 supervising body of the hearing officer or administrative law judge shall
20 decide whether a showing of prejudice has been made.

21 G. The employer has the burden of proof in an appeal of a disciplinary
22 action by a law enforcement officer.

23 H. Except where a statute, rule or ordinance makes the administrative
24 evidentiary hearing the final administrative determination and after a
25 hearing where the law enforcement officer and the employer have been equally
26 allowed to call and examine witnesses, cross-examine witnesses, provide
27 documentary evidence and otherwise fully participate in the hearing, an
28 employer or a person acting on behalf of an employer may amend, modify,
29 reject or reverse the portion of a decision made by a hearing officer,
30 administrative law judge or appeals board that was arbitrary or without
31 reasonable justification. The employer or person acting on behalf of the
32 employer shall state the reason for the amendment, modification, rejection or
33 reversal.

34 I. Notwithstanding chapter 3, article 3.1 of this title, all hearings
35 pursuant to this section shall be open to the public. Executive sessions
36 permitted pursuant to section 38-431.03 shall be limited to legal advice to a
37 personnel appeals board or for deliberations.

38 J. A law enforcement officer who prevails in an appeal where a
39 termination has been reversed ~~may~~ SHALL be awarded retroactive compensation
40 from the date of the officer's separation to the date of reinstatement. The
41 hearing officer, administrative law judge or appeals board hearing the appeal
42 shall determine the amount of retroactive compensation awarded and any
43 reduction to that amount. Retroactive compensation may be reduced:

44 1. If there is undue delay in setting a hearing date caused by the law
45 enforcement officer or the law enforcement officer's representative.

46 2. If the law enforcement officer requests a continuance.

1 3. If there exists a period between separation and reinstatement that
2 the law enforcement officer would have been unable to perform the duties of a
3 law enforcement officer.

4 4. By any amount earned by the law enforcement officer in alternative
5 employment.

6 5. IF THE HEARING OFFICER, ADMINISTRATIVE LAW JUDGE OR APPEALS BOARD
7 FINDS THAT THE LAW ENFORCEMENT OFFICER'S ACTION OR MISCONDUCT WARRANTS
8 SUSPENSION OR DEMOTION.

9 K. The hearing officer, administrative law judge or appeals board
10 shall state in every finding of disciplinary action whether or not just cause
11 existed for the disciplinary action.

12 L. The hearing officer, administrative law judge or appeals board
13 shall document in the record those circumstances where the hearing officer,
14 administrative law judge or appeals board determines that a party has clearly
15 violated a party's obligation under this section.

16 M. This section does not apply to a law enforcement officer who is
17 employed by an agency of this state as an at will employee.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.