

REFERENCE TITLE: **conflict of interest; officers; employees**

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2498

Introduced by
Representatives Gallego, Cardenas, Escamilla, Gabaldón, Larkin, Steele,
Senator Dalessandro: Representatives Alston, Quezada

AN ACT

**AMENDING SECTIONS 38-502 AND 38-503, ARIZONA REVISED STATUTES; RELATING TO
CONFLICT OF INTEREST OF 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 38-502, Arizona Revised Statutes, is amended to
3 read:
4 38-502. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Compensation" means money, a tangible thing of value or a
7 financial benefit.
8 2. "Employee" means all persons who are not public officers and who
9 are employed on a full-time, part-time or contract basis by an incorporated
10 city or town, a political subdivision or the state or any of its departments,
11 commissions, agencies, bodies or boards for remuneration.
12 3. "Make known" means the filing of a paper ~~which~~ THAT is signed by a
13 public officer or employee and ~~which~~ THAT fully discloses a substantial
14 interest or the filing of a copy of the official minutes of a public agency
15 ~~which~~ THAT fully discloses a substantial interest. The filing shall be in
16 the special file established pursuant to section 38-509.
17 4. "Official records" means the minutes or papers, records and
18 documents maintained by a public agency for the specific purpose of receiving
19 disclosures of substantial interests required to be made known by this
20 article.
21 5. "Political subdivision" means all political subdivisions of the
22 state and county, including all school districts.
23 6. "Public agency" means:
24 (a) All courts.
25 (b) Any department, agency, board, commission, institution,
26 instrumentality or legislative or administrative body of the state, a county,
27 an incorporated town or city and any other political subdivision.
28 (c) The state, county and incorporated cities or towns and any other
29 political subdivisions.
30 7. "Public competitive bidding" means the method of purchasing ~~defined~~
31 ~~in~~ PRESCRIBED BY title 41, ~~chapter 4, article 3~~ CHAPTER 23, or procedures
32 substantially equivalent to such A method of purchasing, or as provided by
33 local charter or ordinance.
34 8. "Public officer" means all elected and appointed officers of a
35 public agency established by charter, ordinance, resolution, state
36 constitution or statute.
37 9. "Relative" means the spouse, child, child's child, parent,
38 grandparent, brother or sister of the whole or half blood and their spouses
39 and the parent, brother, sister or child of a spouse.
40 10. "Remote interest" means:
41 (a) That of a nonsalaried officer of a nonprofit corporation.
42 (b) That of a landlord or tenant of the contracting party.
43 (c) That of an attorney of a contracting party.
44 (d) That of a member of a nonprofit cooperative marketing association.

1 (e) The ownership of less than three per cent of the shares of a
2 corporation for profit, provided the total annual income from dividends,
3 including the value of stock dividends, from the corporation does not exceed
4 five per cent of the total annual income of such officer or employee and any
5 other payments made to him by the corporation do not exceed five per cent of
6 his total annual income.

7 (f) That of a public officer or employee in being reimbursed for his
8 actual and necessary expenses incurred in the performance of official duty.

9 (g) That of a recipient of public services generally provided by the
10 incorporated city or town, political subdivision or state department,
11 commission, agency, body or board of which he is a public officer or
12 employee, on the same terms and conditions as if he were not an officer or
13 employee.

14 (h) That of a public school board member when the relative involved is
15 not a dependent, as defined in section 43-1001, or a spouse.

16 (i) That of a public officer or employee, or that of a relative of a
17 public officer or employee, unless the contract or decision involved would
18 confer a direct economic benefit or detriment ~~upon~~ ON the officer, ~~THE~~
19 employee or his relative, of any of the following:

20 (i) Another political subdivision.

21 (ii) A public agency of another political subdivision.

22 (iii) A public agency except if it is the same governmental entity.

23 (j) That of a member of a trade, business, occupation, profession or
24 class of persons consisting of at least ~~ten~~ FIFTY members which is no greater
25 than the interest of the other members of that trade, business, occupation,
26 profession or class of persons AND WHICH IS DE MINIMIS.

27 (k) THE DIRECT OR INDIRECT OWNERSHIP INTEREST OF A PUBLIC OFFICER OR
28 EMPLOYEE IN REAL PROPERTY VALUED AT ONE THOUSAND DOLLARS OR LESS.

29 11. "Substantial interest" means any pecuniary or proprietary interest,
30 either direct or indirect, other than a remote interest.

31 Sec. 2. Section 38-503, Arizona Revised Statutes, is amended to read:

32 38-503. Conflict of interest; exemptions; employment
33 prohibition

34 A. Any public officer or employee of a public agency who has, or whose
35 relative has, a substantial interest in any contract, sale, purchase or
36 service to such public agency shall make known that interest in the official
37 records of such public agency and shall refrain from voting ~~upon~~ ON or
38 otherwise participating in any manner as an officer or employee in such
39 contract, sale or purchase.

40 B. Any public officer or employee who has, or whose relative has, a
41 substantial interest in any decision of a public agency shall make known such
42 interest in the official records of such public agency and shall refrain from
43 participating in any manner as an officer or employee in such decision.

44 C. Notwithstanding ~~the provisions of~~ subsections A and B of this
45 section, no public officer or employee of a public agency shall supply to

1 such public agency any equipment, material, supplies or services, unless
2 pursuant to an award or contract let after public competitive bidding, except
3 that:

4 1. A school district governing board may purchase, as provided in
5 sections 15-213 and 15-323, supplies, materials and equipment from a school
6 board member.

7 2. Political subdivisions other than school districts may purchase
8 through their governing bodies, without using public competitive bidding
9 procedures, supplies, materials and equipment not exceeding three hundred
10 dollars in cost in any single transaction, not to exceed a total of one
11 thousand dollars annually, from a member of the governing body if the policy
12 for such purchases is approved annually.

13 D. Notwithstanding subsections A and B of this section and as provided
14 in sections 15-421 and 15-1441, the governing board of a school district or a
15 community college district may not employ a person who is a member of the
16 governing board or who is the spouse of a member of the governing board.

17 E. A PUBLIC OFFICER OR EMPLOYEE MAY NOT REQUIRE AN EMPLOYEE TO PERFORM
18 AN ACT IN VIOLATION OF THIS SECTION. A PUBLIC OFFICER OR EMPLOYEE MAY NOT ON
19 GOVERNMENT TIME ASSIST IN:

- 20 1. A POLITICAL PARTY OR CANDIDATE ACTIVITY.
21 2. CAMPAIGNING.
22 3. POLITICAL FUND-RAISING.