

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 289

HOUSE BILL 2123

AN ACT

AMENDING SECTIONS 10-130, 38-502, 40-101 AND 40-102, ARIZONA REVISED
STATUTES; RELATING TO THE CORPORATION COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 10-130, Arizona Revised Statutes, is amended to
3 read:

4 10-130. Powers

5 A. The commission has the power and authority reasonably necessary to
6 enable it to administer this title efficiently and to perform the duties
7 imposed on it by this title, including the power and authority to make rules
8 and regulations for those purposes.

9 B. The commission shall establish and maintain a database for documents
10 filed pursuant to sections 10-203, 10-1006, 10-1007, 10-1008, 10-1105,
11 10-1403, 10-1503, 10-1520, 10-2077, 10-2143, 10-3203, 10-11006, 10-11007,
12 10-11008, 10-11105, 10-11403, 10-11503, 10-11520, 29-633, 29-635 and 29-754.
13 The database shall only include documents that are filed for an entity with a
14 known place of business that is located in a county with a population of more
15 than eight hundred thousand persons. The commission shall post the database
16 on its website to allow the public to search for business information,
17 including an entity's name, approval date and county of the known place of
18 business. The information must be maintained in the database for at least
19 ninety days. The commission may ~~not~~ charge a fee to any entity for
20 information entered into the database pursuant to this subsection.

21 Sec. 2. Section 38-502, Arizona Revised Statutes, is amended to read:

22 38-502. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Compensation" means money, a tangible thing of value or a
25 financial benefit.

26 2. "Employee" means all persons who are not public officers and who
27 are employed on a full-time, part-time or contract basis by an incorporated
28 city or town, a political subdivision or the state or any of its departments,
29 commissions, agencies, bodies or boards for remuneration.

30 3. "Make known" means the filing of a paper which is signed by a
31 public officer or employee and which fully discloses a substantial interest
32 or the filing of a copy of the official minutes of a public agency which
33 fully discloses a substantial interest. The filing shall be in the special
34 file established pursuant to section 38-509.

35 4. "Official records" means the minutes or papers, records and
36 documents maintained by a public agency for the specific purpose of receiving
37 disclosures of substantial interests required to be made known by this
38 article.

39 5. "Political subdivision" means all political subdivisions of the
40 state and county, including all school districts.

41 6. "Public agency" means:

42 (a) All courts.

43 (b) Any department, agency, board, commission, institution,
44 instrumentality or legislative or administrative body of the state, a county,
45 an incorporated town or city and any other political subdivision.

1 (c) The state, county and incorporated cities or towns and any other
2 political subdivisions.

3 7. "Public competitive bidding" means the method of purchasing ~~defined~~
4 ~~in~~ PRESCRIBED BY title 41, chapter ~~4, article 3~~ 23, or procedures
5 substantially equivalent to such method of purchasing, or as provided by
6 local charter or ordinance.

7 8. "Public officer" means all elected and appointed officers of a
8 public agency established by charter, ordinance, resolution, state
9 constitution or statute.

10 9. "Relative" means the spouse, child, child's child, parent,
11 grandparent, brother or sister of the whole or half blood and their spouses
12 and the parent, brother, sister or child of a spouse.

13 10. "Remote interest" means:

14 (a) That of a nonsalaried officer of a nonprofit corporation.

15 (b) That of a landlord or tenant of the contracting party.

16 (c) That of an attorney of a contracting party.

17 (d) That of a member of a nonprofit cooperative marketing association.

18 (e) The ownership of less than three ~~per cent~~ PERCENT of the shares of
19 a corporation for profit, provided the total annual income from dividends,
20 including the value of stock dividends, from the corporation does not exceed
21 five ~~per cent~~ PERCENT of the total annual income of such officer or employee
22 and any other payments made to him by the corporation do not exceed five ~~per~~
23 ~~cent~~ PERCENT of his total annual income.

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

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

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

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

37 (i) Another political subdivision.

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

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

40 (j) That of a member of a trade, business, occupation, profession or
41 class of persons consisting of at least ten members which is no greater than
42 the interest of the other members of that trade, business, occupation,
43 profession or class of persons.

44 (k) THAT OF A RELATIVE WHO IS AN EMPLOYEE OF ANY BUSINESS ENTITY OR
45 GOVERNMENTAL ENTITY THAT EMPLOYS AT LEAST TWENTY-FIVE EMPLOYEES WITHIN THIS

1 STATE AND WHO, IN THE CAPACITY AS AN EMPLOYEE, DOES NOT ASSERT CONTROL OR
2 DECISION-MAKING AUTHORITY OVER THE ENTITY'S MANAGEMENT OR BUDGET DECISIONS.

3 (1) THE OWNERSHIP OF ANY PUBLICLY TRADED INVESTMENTS THAT ARE HELD IN
4 AN ACCOUNT OR FUND, INCLUDING A MUTUAL FUND, THAT IS MANAGED BY ONE OR MORE
5 QUALIFIED INVESTMENT PROFESSIONALS WHO ARE NOT EMPLOYED OR CONTROLLED BY THE
6 OFFICER OR EMPLOYEE AND THAT THE OFFICER OR EMPLOYEE OWNS SHARES OR INTEREST
7 TOGETHER WITH OTHER INVESTORS.

8 11. "Substantial interest" means any NONSPECULATIVE pecuniary or
9 proprietary interest, either direct or indirect, other than a remote
10 interest.

11 Sec. 3. Section 40-101, Arizona Revised Statutes, is amended to read:

12 40-101. Interest of commissioner or employee prohibited in
13 corporation subject to regulation

14 NOTWITHSTANDING ANY OTHER LAW, a person in the employ of, or holding an
15 official relation to a corporation or person subject to regulation by the
16 commission, or a person owning stocks or bonds of a corporation subject to
17 regulation, or a person who is pecuniarily interested therein, shall not be
18 elected, appointed to, or hold the office of commissioner or be appointed or
19 employed by the commission. If a commissioner, or appointee or employee of
20 the commission becomes the owner of such stocks or bonds, or becomes
21 pecuniarily interested in such a corporation involuntarily, he shall within a
22 reasonable time divest himself of such stocks, bonds or interest. If he
23 fails to do so, he thereby vacates his office or employment.

24 Sec. 4. Section 40-102, Arizona Revised Statutes, is amended to read:

25 40-102. Corporation commission organization: meetings: acts of
26 commission by majority or by single commissioner

27 A. The corporation commission shall elect from its membership a
28 chairman.

29 B. The commission shall hold a session at least once each month at its
30 office. It may meet at any time or place expedient for the performance of
31 its duties. The commission may, for holding meetings at places other than
32 its offices, occupy any courtroom, or rent offices, the expense of which
33 shall be paid as other expenses authorized by this article. Sessions of the
34 commission shall be open to the public.

35 C. The act of a majority of the commissioners when in session as a
36 board shall be the act of the commission. Any investigation, inquiry or
37 hearing may be undertaken or held by or before any commissioner designated by
38 the commission for the purpose, and every finding, order or decision made by
39 a commissioner so designated, when approved and confirmed by the commission
40 and ordered filed in its office, shall be the finding, order or decision of
41 the commission.

42 D. COMMISSIONERS AND EMPLOYEES OF THE COMMISSION ARE SUBJECT TO TITLE
43 38, CHAPTER 3, ARTICLE 8.

1 Sec. 5. Conditional enactment

2 Section 10-130, Arizona Revised Statutes, as amended by this act, does
3 not become effective unless House Bill 2447, fifty-second legislature, second
4 regular session, relating to business entities, becomes law.

5 Sec. 6. Effective date

6 Section 10-130, Arizona Revised Statutes, as amended by House Bill
7 2447, fifty-second legislature, second regular session, and this act is
8 effective from and after December 31, 2016.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.