

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

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2729

Introduced by
Representatives Blanc: Andrade, Rodriguez

AN ACT

**AMENDING SECTIONS 38-502 AND 38-503, ARIZONA REVISED STATUTES; RELATING TO
CONFLICT OF INTEREST OF OFFICER 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
10 incorporated city or town, a political subdivision or the state or any of
11 its departments, commissions, agencies, bodies or boards for remuneration.
12 3. "Make known" means the filing of a paper ~~which~~ THAT is signed by
13 a 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
15 agency ~~which~~ THAT fully discloses a substantial interest. The filing
16 shall be in 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
19 receiving disclosures of substantial interests required to be made known
20 by this 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
27 county, an incorporated town or city and any other political subdivision.
28 (c) The state, county and incorporated cities or towns and any
29 other political subdivisions.
30 7. "Public competitive bidding" means the method of purchasing
31 prescribed by title 41, chapter 23, or procedures substantially equivalent
32 to such method of purchasing, or as provided by local charter or
33 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
39 spouses 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
45 association.

1 (e) The ownership of less than three percent 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
4 exceed five percent of the total annual income of such officer or employee
5 and any other payments made to ~~him~~ SUCH OFFICER OR EMPLOYEE by the
6 corporation do not exceed five percent of ~~his~~ THE OFFICER'S OR EMPLOYEE'S
7 total annual income.

8 (f) That of a public officer or employee in being reimbursed for
9 ~~his~~ THE OFFICER'S OR EMPLOYEE'S actual and necessary expenses incurred in
10 the performance of AN official duty.

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

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

18 (i) That of a public officer or employee, or that of a relative of
19 a public officer or employee, unless the contract or decision involved
20 would confer a direct economic benefit or detriment on the officer, the
21 employee or ~~his~~ THE OFFICER'S OR EMPLOYEE'S relative, of any of the
22 following:

23 (i) Another political subdivision.

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

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

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

30 (k) That of a relative who is an employee of any business entity or
31 governmental entity that employs at least twenty-five employees within
32 this state and who, in the capacity as an employee, does not assert
33 control or decision-making authority over the entity's management or
34 budget decisions.

35 (l) The ownership of any publicly traded investments that are held
36 in an account or fund, including a mutual fund, that is managed by one or
37 more qualified investment professionals who are not employed or controlled
38 by the officer or employee and that the officer or employee owns shares or
39 interest together with other investors.

40 (m) THE DIRECT OR INDIRECT OWNERSHIP INTEREST OF A PUBLIC OFFICER
41 OR EMPLOYEE IN REAL PROPERTY VALUED AT \$1,000 OR LESS.

42 11. "Substantial interest" means any nonspeculative pecuniary or
43 proprietary interest, either direct or indirect, other than a remote
44 interest.

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

3 38-503. Conflict of interest; exemptions; employment
4 prohibition

5 A. Any public officer or employee of a public agency who has, or
6 whose relative has, a substantial interest in any contract, sale, purchase
7 or service to such public agency shall make known that interest in the
8 official records of such public agency and shall refrain from voting ~~upon~~
9 **ON** or otherwise participating in any manner as an officer or employee in
10 such contract, sale or purchase.

11 B. Any public officer or employee who has, or whose relative has, a
12 substantial interest in any decision of a public agency shall make known
13 such interest in the official records of such public agency and shall
14 refrain from participating in any manner as an officer or employee in such
15 decision.

16 C. Notwithstanding the provisions of subsections A and B of this
17 section, no public officer or employee of a public agency shall supply to
18 such public agency any equipment, material, supplies or services, unless
19 pursuant to an award or contract let after public competitive bidding,
20 except that:

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

24 2. Political subdivisions other than school districts may purchase
25 through their governing bodies, without using public competitive bidding
26 procedures, supplies, materials and equipment not exceeding ~~three hundred~~
27 ~~dollars~~ **\$300** in cost in any single transaction, not to exceed a total of
28 ~~one thousand dollars~~ **\$1,000** annually, from a member of the governing body
29 if the policy for such purchases is approved annually.

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

35 E. **A PUBLIC OFFICER OR EMPLOYEE MAY NOT REQUIRE AN EMPLOYEE TO**
36 **PERFORM AN ACT IN VIOLATION OF THIS SECTION. A PUBLIC OFFICER OR EMPLOYEE**
37 **MAY NOT ON GOVERNMENT TIME ASSIST IN:**

- 38 1. **A POLITICAL PARTY OR CANDIDATE ACTIVITY.**
39 2. **CAMPAIGNING.**
40 3. **POLITICAL FUND-RAISING.**

41 Sec. 3. Short title

42 This act may be cited as the "Eliminate Public Corruption Act".