House Engrossed Senate Bill

CORRECTED

county transportation planning assistant
(now: impeding school operations; civil liability)

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1532

AN ACT

AMENDING TITLE 15, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 15-717.02; AMENDING SECTION 35-212, ARIZONA REVISED
STATUTES; RELATING TO PUBLIC MONIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 15, chapter 7, article 1, Arizona Revised Statutes, is amended by adding section 15-717.02, to read:

15-717.02. Controversial issues of public policy or social affairs; prohibition; discussion; coursework; legal action; civil penalty; misused monies

A. A SCHOOL DISTRICT, CHARTER SCHOOL OR STATE AGENCY MAY NOT REQUIRE A TEACHER, ANOTHER EMPLOYEE OR A VISITOR TO DISCUSS CONTROVERSIAL ISSUES OF PUBLIC POLICY OR SOCIAL AFFAIRS THAT ARE NOT ESSENTIAL TO THE COURSE LEARNING OBJECTIVES. ACCURATE PORTRAYALS OF HISTORICAL EVENTS, LESSONS ON RECOGNIZING AND REPORTING ABUSE AND SEX EDUCATION ARE NOT CONTROVERSIAL FOR THE PURPOSES OF THIS SECTION.

B. IF A TEACHER Chooses to discuss controversial issues of public policy or social affairs, the teacher, to the best of the teacher's ability, shall present these issues from diverse and contending perspectives without giving deference to any one perspective.

C. A SCHOOL DISTRICT, CHARTER SCHOOL OR STATE AGENCY MAY NOT ALLOW A TEACHER OR EMPLOYEE TO REQUIRE OR MAKE PART OF A COURSE STUDENT WORK FOR OR IN AFFILIATION WITH OR SERVICE LEARNING THAT INVOLVES THE STUDENT BEING ENGAGED IN LOBBYING FOR LEGISLATION AT THE LOCAL, STATE OR FEDERAL LEVEL OR IN SOCIAL OR PUBLIC POLICY ADVOCACY. THIS PROHIBITION DOES NOT APPLY TO EXTRA CREDIT WORK OR ACADEMIC CREDIT FOR AN INTERNSHIP OR WORK EXPERIENCE. ANY CREDIT AWARDED PURSUANT TO THIS SUBSECTION MAY NOT BE INFLUENCED IN ANY WAY BY THE PUBLIC POLICY ISSUE CHOSEN BY THE STUDENT.

D. A SCHOOL DISTRICT, CHARTER SCHOOL OR STATE AGENCY MAY NOT REQUIRE A TEACHER, ADMINISTRATOR OR OTHER EMPLOYEE OF A SCHOOL DISTRICT OR CHARTER SCHOOL TO ENGAGE IN TRAINING, ORIENTATION OR THERAPY THAT PRESENTS ANY FORM OF BLAME OR JUDGMENT ON THE BASIS OF RACE, ETHNICITY OR SEX. THIS SUBSECTION DOES NOT PRECLUDE ANY TRAINING ON SEXUAL HARASSMENT.

E. A TEACHER, ADMINISTRATOR OR OTHER EMPLOYEE OF A SCHOOL DISTRICT, CHARTER SCHOOL OR STATE AGENCY MAY NOT REQUIRE INSTRUCTION IN OR MAKE PART OF A COURSE THE FOLLOWING CONCEPTS:

1. ONE RACE, ETHNIC GROUP OR SEX IS INHERENTLY MORALLY OR INTELLECTUALLY SUPERIOR TO ANOTHER RACE, ETHNIC GROUP OR SEX.

2. AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S RACE, ETHNICITY OR SEX, IS INHERENTLY RACIST, SEXIST OR OPPRESSIVE, WHETHER CONSCIOUSLY OR UNCONSCIOUSLY.

3. AN INDIVIDUAL SHOULD BE INVIDIOUSLY DISCRIMINATED AGAINST OR RECEIVE ADVERSE TREATMENT SOLELY OR PARTLY BECAUSE OF THE INDIVIDUAL'S RACE, ETHNICITY OR SEX.

4. AN INDIVIDUAL'S MORAL CHARACTER IS DETERMINED BY THE INDIVIDUAL'S RACE, ETHNICITY OR SEX.
5. AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S RACE, ETHNICITY OR
SEX, BEARS RESPONSIBILITY FOR ACTIONS COMMITTED BY OTHER MEMBERS OF THE
SAME RACE, ETHNIC GROUP OR SEX.

6. AN INDIVIDUAL SHOULD FEEL DISCOMFORT, GUILT, ANGUISH OR ANY
OTHER FORM OF PSYCHOLOGICAL DISTRESS BECAUSE OF THE INDIVIDUAL'S RACE,
ETHNICITY OR SEX.

7. ACADEMIC ACHIEVEMENT, MERITOCRACY OR TRAITS SUCH AS A HARD WORK
ETHIC ARE RACIST OR SEXIST OR WERE CREATED BY MEMBERS OF A PARTICULAR
RACE, ETHNIC GROUP OR SEX TO OPPRESS MEMBERS OF ANOTHER RACE, ETHNIC GROUP
OR SEX.

F. AN ATTORNEY ACTING ON BEHALF OF A PUBLIC SCHOOL MAY REQUEST A
LEGAL OPINION OF THE COUNTY ATTORNEY OR ATTORNEY GENERAL AS TO WHETHER A
PROPOSED USE OF SCHOOL DISTRICT RESOURCES WOULD VIOLATE THIS SECTION OR
SECTION 35-212.

G. THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY FOR THE COUNTY IN
WHICH AN ALLEGED VIOLATION OF THIS SECTION OCCURS MAY INITIATE A SUIT IN
THE SUPERIOR COURT IN THE COUNTY IN WHICH THE SCHOOL DISTRICT OR CHARTER
SCHOOL IS LOCATED FOR THE PURPOSE OF COMPLYING WITH THIS SECTION.

H. FOR EACH VIOLATION OF THIS SECTION, THE COURT MAY IMPOSE A CIVIL
PENALTY NOT TO EXCEED $5,000 PER PERSON PLUS ANY AMOUNT OF MISUSED MONIES
FROM THE SCHOOL DISTRICT, CHARTER SCHOOL OR STATE AGENCY BUDGET AGAINST A
PERSON WHO KNOWINGLY VIOLATES OR WHO KNOWINGLY AID ANOTHER PERSON IN
VIOLATING THIS SECTION. THE PERSON DETERMINED TO BE OUT OF COMPLIANCE
WITH THIS SECTION IS RESPONSIBLE FOR PAYING ALL CIVIL PENALTIES AND
MISUSED MONIES. IF A CURRICULUM IS ADOPTED THAT VIOLATES THIS SECTION,
ANY PERSON WHO IS RESPONSIBLE FOR ADOPTING THE CURRICULUM IS RESPONSIBLE
FOR PAYING ALL CIVIL PENALTIES AND MISUSED MONIES. SCHOOL DISTRICT MONIES
OR INSURANCE PAYMENTS MAY NOT BE USED TO PAY THESE CIVIL PENALTIES OR
MISUSED MONIES.

I. ALL MISUSED MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE
RETURNED TO THE SCHOOL DISTRICT OR CHARTER SCHOOL WHOSE MONIES WERE
MISUSED. ALL CIVIL PENALTIES COLLECTED BY THE COURT FOR A SUIT INITIATED
IN SUPERIOR COURT BY THE ATTORNEY GENERAL SHALL BE PAID TO THE OFFICE OF
THE ATTORNEY GENERAL FOR THE USE AND REIMBURSEMENT OF COSTS OF PROSECUTION
PURSUANT TO THIS SECTION. ALL CIVIL PENALTIES COLLECTED BY THE COURT FOR A
SUIT INITIATED IN SUPERIOR COURT BY A COUNTY ATTORNEY SHALL BE PAID TO THE
COUNTY TREASURER OF THE COUNTY IN WHICH THE COURT IS HELD FOR THE USE AND
REIMBURSEMENT OF COSTS OF PROSECUTION PURSUANT TO THIS SECTION.

Sec. 2. Section 35-212, Arizona Revised Statutes, is amended to
read:

35-212. Injunctive and civil remedies; time limit; definition

A. The attorney general in the attorney general's discretion may
bring an action in the name of the THIS state to:
1. Enjoin the illegal payment of public monies, including violations of section 11-952 and title 41, chapter 23.

2. Recover illegally paid public monies plus twenty percent of that amount together with interest and costs, including reasonable attorney fees, to be paid to the state treasurer or other appropriate official; or, in the case of public monies of a political subdivision that did not originate or were not received from this state, to the political subdivision, to the credit of the fund from which the payment was made.

B. The attorney general may bring an action to recover illegally paid public monies against:

1. Any person who received the illegal payment.

2. The public body or the public officer acting in the officer's official capacity who ordered or caused the illegal payment or has supervisory authority over the person that ordered or caused the illegal payment.

3. The public official, employee or agent who ordered or caused the illegal payment, including a payment ordered or caused to be made without authorization of law.

4. THE PUBLIC OFFICIAL, EMPLOYEE OR AGENT OF THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR A BUDGET UNIT WHO KNOWINGLY USES PUBLIC MONIES OR OTHER PUBLIC RESOURCES, INCLUDING EMAIL, EQUIPMENT OR COMPENSATED WORK TIME, TO ORGANIZE, PLAN OR EXECUTE ANY ACTIVITY THAT IMPEDES OR PREVENTS A PUBLIC SCHOOL FROM OPERATING FOR ANY PERIOD OF TIME, UNLESS THE PUBLIC OFFICIAL, EMPLOYEE OR AGENT IS ACTING IN GOOD FAITH AND IN FURTHERANCE OF THE OFFICIAL'S, EMPLOYEE'S OR AGENT'S OFFICIAL DUTIES.

5. THE TEACHER, ADMINISTRATOR OR OTHER EMPLOYEE OF A SCHOOL DISTRICT OR CHARTER SCHOOL OR THE STATE EMPLOYEE WHOSE VIOLATION OF SECTION 15-717.02 RESULTED IN AN ILLEGAL USE OF PUBLIC MONIES.

C. A public official, employee or agent of this state, a political subdivision of this state or a budget unit who is charged with collecting, receiving, safekeeping, transferring or disbursing public monies may be held personally liable for an illegal payment of public monies, including payment made without authorization of law.

D. A public official, employee or agent of this state, a political subdivision of this state or a budget unit who is responsible for disbursing, collecting, receiving, safekeeping or transferring public monies pursuant to a warrant, check or substitute check, electronic funds transfer voucher or other form of claim that does not originate from the public official, employee or agent making the disbursal may not be held personally liable for illegal payments made pursuant to such warrants, checks or substitute checks, electronic funds transfer vouchers or other claims unless the public official, employee or agent knew or should have known that a warrant, check or substitute check, electronic funds transfer voucher.
voucher or other claim would result in an illegal payment of public monies.

E. An action brought pursuant to this article is subject to title 12, chapter 7, article 2. If the action is brought by the attorney general, the action must be brought within five years after the date an illegal payment was ordered and section 12-821.01 does not apply to the action.

F. For the purposes of this section, "public monies" includes all monies coming into the lawful possession, custody or control of budget units, state agencies, boards, commissions or departments or a state officer, employee or agent in an official capacity, and all monies coming into the lawful possession, custody or control of a tax-supported political subdivision or an officer, employee or agent of a tax-supported political subdivision in an official capacity irrespective of the source from which, or the manner in which, the monies are received.