

REFERENCE TITLE: open meeting law; violations; penalty

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2162

Introduced by
Representative Kaiser

AN ACT

AMENDING SECTION 38-431.07, ARIZONA REVISED STATUTES; RELATING TO PUBLIC MEETINGS AND PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-431.07, Arizona Revised Statutes, is amended
3 to read:

4 38-431.07. Violations; enforcement; civil penalty; removal
5 from office; in camera review

6 A. Any person affected by an alleged violation of this article, the
7 attorney general or the county attorney for the county in which an alleged
8 violation of this article occurred may commence a suit in the superior
9 court in the county in which the public body ordinarily meets, for the
10 purpose of requiring compliance with, or the prevention of violations of,
11 this article, by the public body as a whole, or to determine the
12 applicability of this article to matters or legal actions of the public
13 body. The attorney general may also commence a suit in the superior court
14 in the county in which the public body ordinarily meets against an
15 individual member of a public body for a knowing OR RECKLESS violation of
16 this article, and in such a suit the court may impose a civil penalty
17 against each person who knowingly OR RECKLESSLY violates this article or
18 who knowingly OR RECKLESSLY aids, agrees to aid or attempts to aid in
19 violating this article and order equitable relief as the court deems
20 appropriate in the circumstances. The court may impose a civil penalty OF
21 not ~~to exceed five hundred dollars~~ MORE THAN \$500 for the ~~second~~ FIRST
22 offense and not ~~to exceed two thousand five hundred dollars~~ MORE THAN
23 \$10,000 for the ~~third~~ SECOND and subsequent offenses. If the court
24 imposes a civil penalty against an individual member of the public body
25 who knowingly OR RECKLESSLY violates this article, the public body may not
26 pay the civil penalty on behalf of, or otherwise reimburse, the individual
27 against whom the civil penalty has been imposed. If the court finds that
28 a person who might otherwise be liable under this subsection objected to
29 the action of the public body and the objection is noted on a public
30 record, the court may choose not to impose a civil penalty on that
31 person. The civil penalties awarded pursuant to this section shall be
32 deposited ~~into~~ IN the general fund of the public body concerned. The
33 court may also order payment to a successful plaintiff in a suit brought
34 under this section of the plaintiff's reasonable attorney fees, by the
35 defendant state, the political subdivision of the state or the
36 incorporated city or town of which the public body is a part or to which
37 it reports. If the court determines that a public officer with intent to
38 deprive the public of information knowingly AND WILFULLY violated any
39 provision of this article, the court may remove the public officer from
40 office and shall assess the public officer or a person who knowingly OR
41 WILFULLY aided, agreed to aid or attempted to aid the public officer in
42 violating this article, or both, with all of the costs and attorney fees
43 awarded to the plaintiff pursuant to this section.

1 B. IN ADDITION TO OR IN LIEU OF THE CIVIL PENALTIES PRESCRIBED IN
2 SUBSECTION A OF THIS SECTION, THE COURT MAY REQUIRE A MEMBER OF THE PUBLIC
3 BODY TO ATTEND TRAINING ON PUBLIC MEETINGS AS DIRECTED BY THE ATTORNEY
4 GENERAL, THE ATTORNEY GENERAL'S DESIGNEE OR THE OMBUDSMAN-CITIZENS AIDE.

5 ~~B.~~ C. A public body shall not expend public monies to employ or
6 retain legal counsel to provide legal services or representation to the
7 public body or any of its officers in any legal action commenced pursuant
8 to any provisions of this article, unless the public body has authority to
9 make the expenditure pursuant to other provisions of law and takes a legal
10 action at a properly noticed open meeting approving the expenditure before
11 incurring any obligation or indebtedness.

12 ~~C.~~ D. In any action brought pursuant to this section challenging
13 the validity of an executive session, the court may review in camera the
14 minutes of the executive session, and if the court in its discretion
15 determines that the minutes are relevant and that justice so demands, the
16 court may disclose to the parties or admit in evidence part or all of the
17 minutes.