

REFERENCE TITLE: *illegally paid public monies; recovery*

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

HB 2478

Introduced by
Representatives Carroll: Blackman, Bolick, Burges, Chaplik, Cobb, Cook,
Diaz, Dunn, Hoffman, Kavanagh, Martinez, Nguyen, Parker, Payne,
Pingerelli, Wilmeth, Senators Gowan, Leach, Livingston

AN ACT

REPEALING SECTION 35-212, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 404, SECTION 50; AMENDING SECTION 35-212, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 61, SECTION 16; RELATING TO THE RECOVERY OF STATE MONIES ILLEGALLY PAID.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 35-212, Arizona Revised Statutes, as amended by Laws 2021,
4 chapter 404, section 50, is repealed.

5 Sec. 2. Section 35-212, Arizona Revised Statutes, as amended by
6 Laws 2019, chapter 61, section 16, is amended to read:

7 35-212. Injunctive and civil remedies; time limit; definition

8 A. The attorney general in the attorney general's discretion may
9 bring an action in the name of ~~the~~ THIS state to:

10 1. Enjoin the illegal payment of public monies, including
11 violations of section 11-952 and title 41, chapter 23.

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

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

21 1. Any person who received the illegal payment.

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

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

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

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

41 D. A public official, employee or agent of this state, a political
42 subdivision of this state or a budget unit who is responsible for
43 disbursing, collecting, receiving, safekeeping or transferring public
44 monies pursuant to a warrant, check or substitute check, electronic funds
45 transfer voucher or other form of claim that does not originate from the

1 public official, employee or agent making the disbursal may not be held
2 personally liable for illegal payments made pursuant to such warrants,
3 checks or substitute checks, electronic funds transfer vouchers or other
4 claims unless the public official, employee or agent knew or should have
5 known that a warrant, check or substitute check, electronic funds transfer
6 voucher or other claim would result in an illegal payment of public
7 monies.

8 E. An action brought pursuant to this article is subject to title
9 12, chapter 7, article 2. If the action is brought by the attorney
10 general, the action must be brought within five years after the date an
11 illegal payment was ordered and section 12-821.01 does not apply to the
12 action.

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