

House Engrossed Senate Bill

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

CHAPTER 318

# **SENATE BILL 1521**

AN ACT

AMENDING SECTIONS 38-612 AND 38-1106, ARIZONA REVISED STATUTES; RELATING TO  
PUBLIC OFFICERS 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 38-612, Arizona Revised Statutes, is amended to  
3 read:

4 38-612. Administration of payroll salary deductions

5 A. There shall be no payroll salary deductions from the compensation  
6 of state officers or employees except as specifically authorized by federal  
7 law or regulation or by a statute of this state. ~~No~~ AN administrative agency  
8 of this state may NOT authorize any other deduction.

9 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, REDUCTIONS TO  
10 RETROACTIVE PAYROLL COMPENSATION ARE AUTHORIZED PURSUANT TO SECTION 38-1106,  
11 SUBSECTION J, PARAGRAPH 5.

12 ~~B.~~ C. In addition to those payroll salary deductions required by  
13 federal law or regulation or by statute, state officers or employees may  
14 authorize deductions to be made from their salaries or wages for the payment  
15 of:

16 1. Premiums on any health benefits, disability plans or group life  
17 plans provided for by statute and any existing insurance programs already  
18 provided by payroll deduction.

19 2. Shares or obligations to any state or federally chartered credit  
20 union established primarily for the purpose of serving state officers and  
21 employees and their families.

22 3. Dues in a recognized association ~~comprised~~ COMPOSED principally of  
23 employees and former employees of agencies of this state, subject to the  
24 following criteria:

25 (a) When ~~comprised~~ COMPOSED of at least one thousand state employees  
26 other than employees of the state universities, the department of public  
27 safety and academic personnel of the Arizona state schools for the deaf and  
28 the blind.

29 (b) When ~~comprised~~ COMPOSED of at least twenty-five ~~per cent~~ PERCENT  
30 of the academic personnel or of the nonacademic employees of any state  
31 university.

32 (c) When ~~comprised~~ COMPOSED of at least twenty-five ~~per cent~~ PERCENT  
33 of the academic personnel of the Arizona state schools for the deaf and the  
34 blind.

35 (d) When ~~comprised~~ COMPOSED of at least ~~five hundred~~ FOUR HUNDRED  
36 state employees who are certified as peace officers by the Arizona peace  
37 officer standards and training board established by section 41-1821.

38 (e) WHEN COMPOSED OF A COMBINED TOTAL OF AT LEAST EIGHT HUNDRED STATE  
39 EMPLOYEES DESCRIBED IN SUBDIVISION (d) OF THIS PARAGRAPH, STATE EMPLOYEES OF  
40 THE STATE DEPARTMENT OF CORRECTIONS AND STATE EMPLOYEES WHO ARE LAW  
41 ENFORCEMENT OFFICERS.

42 4. Deferred compensation or tax sheltered annuity salary reductions  
43 when made under approved plans.

44 5. Federal savings bond plans.

1           6. Recurrent fees, charges or other payments payable to a state agency  
2 under a collection plan approved by the director of the department of  
3 administration.

4           7. Contributions made to a charitable organization:

5           (a) Organized and operated exclusively for charitable purposes and  
6 selected by the presidents of the state universities. Employees of the state  
7 universities shall be advised by form of the charitable organizations to  
8 which ~~they~~ THE EMPLOYEES may contribute through payroll salary deductions.  
9 The advisory provided under this subdivision shall be substantially similar  
10 to the following and prominently printed:

11           "You may contribute to any charitable organization registered under  
12 internal revenue code section 501(c)(3), tax exempt status.  
13

14           Charitable organization name"

15           This subdivision applies only to academic personnel and nonacademic  
16 employees of the state universities.

17           (b) Organized and operated exclusively for charitable purposes,  
18 provided a fund drive by such an organization shall be applicable to all  
19 state agencies except the state universities covered under subdivision (a) of  
20 this paragraph and no state officer or employee of state agencies subject to  
21 this subdivision may authorize more than one deduction for charitable  
22 purposes to be in effect at the same time. This subdivision applies to all  
23 state agencies except the universities covered under subdivision (a) of this  
24 paragraph.

25           8. Contributions made for the purpose of contributing to a fund  
26 raising campaign for a university or a club for faculty or staff, or both,  
27 which is recognized by the university president and authorized by the Arizona  
28 board of regents. This paragraph applies only to academic personnel and  
29 nonacademic employees of the state universities.

30           9. Charges payable for transportation expenses pursuant to section  
31 41-710.01.

32           10. Payments ordered by courts of competent jurisdiction within this  
33 state.

34           11. Automobile or homeowner's insurance premiums.

35           12. Premiums for the following ~~state-sponsored~~ STATE-SPONSORED group  
36 benefits that are established primarily for the purpose of serving state  
37 officers and employees and their families:

- 38           (a) Long-term care insurance.
- 39           (b) Critical care insurance.
- 40           (c) Prepaid legal services.
- 41           (d) Identity theft protection services.

42           13. A computer system as defined in section 13-2301 for personal use.

43           ~~C.~~ D. In order for the department of administration to establish and  
44 maintain a dues deduction pursuant to subsection ~~B~~ C, paragraph 3 of this  
45 section, the department of administration may establish and maintain the

1 deduction without the appropriation of any additional monies or technological  
2 improvements. The department of administration shall track all personnel  
3 hours dedicated to dues deduction. The department of administration may  
4 charge a fee to a recognized association that qualifies under subsection  
5 B- C, paragraph 3 of this section for establishing the automatic dues  
6 deduction and anytime changes are needed in the automatic dues deduction  
7 system as a result of an increase or decrease in association dues. If the  
8 membership criteria of a recognized association falls below the criteria set  
9 forth in subsection B- C, paragraph 3 of this section, the recognized  
10 association shall be on probation for one year. If the membership of a  
11 recognized association falls below the criteria set forth in subsection B- C,  
12 paragraph 3 of this section for more than one year, or if the members of the  
13 association engage in a work slowdown or work stoppage, the dues deduction  
14 authorized by this section shall immediately be discontinued.

15 ~~D.~~ E. For those state officers and employees under payroll systems  
16 ~~which~~ THAT are under the direction of the director of the department of  
17 administration, the director shall provide for the administration of payroll  
18 deductions for the purposes set forth in this section. For all other state  
19 officers and employees and for persons receiving allowances or benefits under  
20 other state payroll and retirement systems, the appropriate state officer  
21 shall provide for such administration of payroll deductions. Such  
22 administration shall operate without cost or contribution from the state  
23 other than the incidental expense of making the deductions and remittances to  
24 the payees. If any payee requests additional services, the director of the  
25 department of administration or any other appropriate state officer may  
26 require payment for the additional cost of providing such services.

27 ~~E.~~ F. As a means of readily identifying the employee from whom  
28 payroll deductions are to be made, the state officer administering payroll  
29 deductions may request an employee to enter such employee's social security  
30 identification number on the payroll deduction authorization. Such number  
31 shall not be used for any other purpose.

32 ~~F.~~ G. The state, the director of the department of administration or  
33 any other appropriate state officer shall be relieved of any liability to  
34 employees authorizing deductions or organizations receiving deductions that  
35 may result from authorizations pursuant to this section.

36 Sec. 2. Section 38-1106, Arizona Revised Statutes, is amended to read:

37 38-1106. Appeal of disciplinary actions; transcripts; change of  
38 hearing officer or administrative law judge; burden  
39 of proof; exception

40 A. In any appeal of a disciplinary action by a law enforcement  
41 officer, the parties shall cooperate with each other, act in good faith and  
42 exchange copies of all relevant documents and a list of all witnesses  
43 pursuant to the following time periods and requirements:

44 1. Within fourteen calendar days after the employer's receipt of a  
45 written request from the law enforcement officer for a copy of the

1 investigative file that is accompanied by a copy of the filed notice of  
2 appeal, the employer shall provide a complete copy of the investigative file  
3 as well as the names and contact information for all persons interviewed  
4 during the course of the investigation.

5 2. No later than fourteen calendar days before the appeal hearing, the  
6 parties shall produce and serve on every party the following information:

7 (a) The name of each witness whom the disclosing party expects to call  
8 at the appeal hearing, with a designation of the subject matter on which each  
9 witness might be called to testify. A witness may decline an interview. The  
10 parties shall not interfere with any decision of a witness regarding whether  
11 to be interviewed. An employer shall not discipline, retaliate against or  
12 threaten to retaliate against any witness for agreeing to be interviewed or  
13 for testifying or providing evidence in the appeal.

14 (b) The name and contact information of each person who has given  
15 statements, whether written or recorded or signed or unsigned, regarding  
16 matters relevant to the notice of discipline and the custodian of the copies  
17 of those statements.

18 (c) Copies of any documents that may be introduced at the hearing and  
19 that have not previously been disclosed.

20 B. It is unlawful for a person to disseminate information that is  
21 disclosed pursuant to subsection A of this section to any person other than  
22 the parties to the appeal and their lawful representatives for purposes of  
23 the appeal of the disciplinary action. This subsection does not prohibit the  
24 use of the information in the hearing or disclosure pursuant to title 39,  
25 chapter 1, article 2.

26 C. If a transcript is required in an administrative hearing, the  
27 employer shall obtain the transcript and provide a copy to the law  
28 enforcement officer within ten calendar days after the employer's receipt of  
29 the transcript.

30 D. Failure to comply with the requirements of subsection A or B of  
31 this section shall result in the exclusion of the witness, evidence or  
32 testimony, unless the failure to comply is because of excusable neglect.

33 E. The employer or the law enforcement officer may seek a  
34 determination by the hearing officer, administrative law judge or appeals  
35 board hearing the appeal regarding any evidence that the employer or the law  
36 enforcement officer believes should not be disclosed pursuant to subsection A  
37 of this section because the risk of harm involved in disclosure outweighs any  
38 usefulness of the disclosure in the hearing. In determining whether evidence  
39 will be disclosed, the hearing officer, administrative law judge or appeals  
40 board may perform an in camera review of the evidence and may disclose the  
41 material subject to any restriction on the disclosure, including the closing  
42 of the hearing or the sealing of the records, that the hearing officer,  
43 administrative law judge or appeals board finds necessary under the  
44 circumstances.

1 F. In any appeal of a disciplinary action by a law enforcement officer  
2 in which a single hearing officer or administrative law judge has been  
3 appointed to conduct the appeal hearing, the law enforcement officer or the  
4 employer, within ten calendar days after the appointment of the hearing  
5 officer or administrative law judge, may request a change of hearing officer  
6 or administrative law judge. In cases before the office of administrative  
7 hearings or if the employer is a county, city or town, on the first request  
8 of a party, the request shall be granted. A city or town with a population  
9 of less than sixty-five thousand persons or a county with a population of  
10 less than two hundred fifty thousand persons must provide, if necessary to  
11 comply with this subsection, for an alternate hearing officer by means of an  
12 interagency agreement with another city, town or county. If the law  
13 enforcement officer is the party who requested the alternate hearing officer,  
14 the law enforcement officer shall reimburse the city, town or county for  
15 one-half of any additional expenses incurred by the city, town or county in  
16 procuring the alternate hearing officer under the interagency agreement. If  
17 an alternate hearing officer is requested by means of an interagency  
18 agreement, the hearing officer shall provide to the law enforcement officer  
19 or employer the option of continuing the hearing for an additional ten  
20 calendar days. Any subsequent requests may be granted only on a showing that  
21 a fair and impartial hearing cannot be obtained due to the prejudice of the  
22 assigned hearing officer or administrative law judge. The supervisor or  
23 supervising body of the hearing officer or administrative law judge shall  
24 decide whether a showing of prejudice has been made.

25 G. The employer has the burden of proof in an appeal of a disciplinary  
26 action by a law enforcement officer.

27 H. Except where a statute, rule or ordinance makes the administrative  
28 evidentiary hearing the final administrative determination and after a  
29 hearing where the law enforcement officer and the employer have been equally  
30 allowed to call and examine witnesses, cross-examine witnesses, provide  
31 documentary evidence and otherwise fully participate in the hearing, an  
32 employer or a person acting on behalf of an employer may amend, modify,  
33 reject or reverse the portion of a decision made by a hearing officer,  
34 administrative law judge or appeals board that was arbitrary or without  
35 reasonable justification. The employer or person acting on behalf of the  
36 employer shall state the reason for the amendment, modification, rejection or  
37 reversal.

38 I. Notwithstanding chapter 3, article 3.1 of this title, all hearings  
39 pursuant to this section shall be open to the public. Executive sessions  
40 permitted pursuant to section 38-431.03 shall be limited to legal advice to a  
41 personnel appeals board or for deliberations.

42 J. A law enforcement officer who prevails in an appeal where a  
43 termination has been reversed ~~may~~ SHALL be awarded retroactive compensation  
44 from the date of the officer's separation to the date of reinstatement. The  
45 hearing officer, administrative law judge or appeals board hearing the appeal

1 shall determine the amount of retroactive compensation awarded and any  
2 reduction to that amount. Retroactive compensation may be reduced:  
3 1. If there is undue delay in setting a hearing date caused by the law  
4 enforcement officer or the law enforcement officer's representative.  
5 2. If the law enforcement officer requests a continuance.  
6 3. If there exists a period between separation and reinstatement that  
7 the law enforcement officer would have been unable to perform the duties of a  
8 law enforcement officer.  
9 4. By any amount earned by the law enforcement officer in alternative  
10 employment.  
11 5. IF THE HEARING OFFICER, ADMINISTRATIVE LAW JUDGE OR APPEALS BOARD  
12 FINDS THAT THE LAW ENFORCEMENT OFFICER'S ACTION OR MISCONDUCT WARRANTS  
13 SUSPENSION OR DEMOTION.  
14 K. The hearing officer, administrative law judge or appeals board  
15 shall state in every finding of disciplinary action whether or not just cause  
16 existed for the disciplinary action.  
17 L. The hearing officer, administrative law judge or appeals board  
18 shall document in the record those circumstances where the hearing officer,  
19 administrative law judge or appeals board determines that a party has clearly  
20 violated a party's obligation under this section.  
21 M. This section does not apply to a law enforcement officer who is  
22 employed by an agency of this state as an at will employee.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House May 6, 2016,

Passed the Senate February 29, 2016,

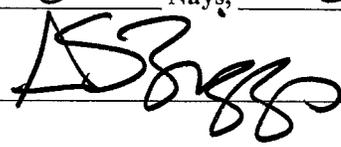
by the following vote: 55 Ayes,

by the following vote: 30 Ayes,

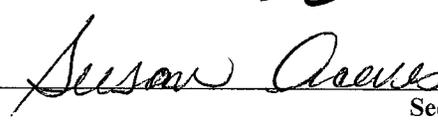
1 Nays, 4 Not Voting

0 Nays, 0 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

  
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR  
This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Governor of Arizona~~

S.B. 1521

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE  
This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary of State~~

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 6, 20 16

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

6th day of May, 20 16

at 4:23 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 17th day of

May

at 5:29 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18th day of May, 20 16

S.B. 1521

at 10:20 o'clock A M.

[Signature]  
Secretary of State