

LAWS OF ARIZONA

CHAPTER 196

Senate Bill 1059

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING FOR OPEN PUBLIC MEETINGS OF GOVERNING BODIES; PROVIDING FOR NOTICE, MINUTES OF MEETINGS AND EQUITABLE RELIEF; PRESCRIBING EXCEPTIONS; AMENDING SECTIONS 38-431 AND 38-431.01, ARIZONA REVISED STATUTES; REPEALING SECTIONS 38-431.02 AND 38-431.05, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 3, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 38-431.02 AND 38-431.03; RENUMBERING SECTIONS 38-431.03 AND 38-431.04, ARIZONA REVISED STATUTES, TO BE SECTIONS 38-431.04 AND 38-431.05, AND AMENDING TITLE 38, CHAPTER 3,

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## ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-431.07 AND 38-431.08.

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

Section 1. Section 38-431, Arizona Revised Statutes, is amended to read:

**38-431. Definitions**

In this article, unless the context otherwise requires:

1. "Governing bodies" means the governing bodies of the state, ~~or~~ political subdivisions, INCORPORATED CITIES AND TOWNS, AND ALL AGENCIES, BOARDS AND COMMISSIONS OF THE FOREGOING, OR ANY COMMITTEE OR SUBCOMMITTEE thereof, which are supported in whole or in part by tax revenues or which expend tax revenues.

2. "LEGAL ACTION" MEANS A COLLECTIVE DECISION, COMMITMENT OR PROMISE MADE BY A MAJORITY OF THE MEMBERS OF A GOVERNING BODY CONSISTENT WITH THE CONSTITUTION, CHARTER OR BYLAWS OF SUCH BODY, AND THE LAWS OF THIS STATE.

~~2-~~ 3. "Proceedings" means the transaction of any functions affecting citizens of this state by an administrative or legislative body of the state or of any of its counties or municipalities or other political subdivisions when such a body is composed of three or more members and is charged with the transaction of such functions under any statute or under any rule or regulation of such legislative or administrative body or agency.

Sec. 2. Section 38-431.01, Arizona Revised Statutes, is amended to read:

**38-431.01. Meetings shall be open to the public**

A. All official meetings at which any legal action is taken by governing bodies shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. ~~All~~

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~~minutes of such meetings as are required by law shall be properly and accurately recorded and open to public inspection except as otherwise specifically provided by statute.~~

B. GOVERNING BODIES, EXCEPT FOR SUBCOMMITTEES, SHALL PROVIDE FOR THE TAKING OF WRITTEN MINUTES OF ALL THEIR MEETINGS. SUCH MINUTES SHALL BE PROPERLY AND ACCURATELY RECORDED AS TO ALL LEGAL ACTION TAKEN AND OPEN TO PUBLIC INSPECTION EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY STATUTE.

**Sec. 3. Repeal**

Section 38-431.02, Arizona Revised Statutes, is repealed.

Sec. 4. Title 38, chapter 3, article 3.1, Arizona Revised Statutes, is amended by adding section 38-431.02 to read:

**38-431.02. Notice of meetings**

A. PUBLIC NOTICE OF ALL REGULAR MEETINGS OF GOVERNING BODIES SHALL BE GIVEN AS FOLLOWS:

1. THE STATE AND ITS AGENCIES, BOARDS AND COMMISSIONS SHALL FILE A STATEMENT WITH THE SECRETARY OF STATE STATING WHERE ALL NOTICES OF THEIR MEETINGS AND THE MEETINGS OF THEIR COMMITTEES AND SUBCOMMITTEES WILL BE POSTED AND SHALL GIVE SUCH PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO THE TIME AND PLACE OF ALL REGULAR MEETINGS.

2. THE COUNTIES AND THEIR AGENCIES, BOARDS AND COMMISSIONS, SCHOOL DISTRICTS, AND OTHER SPECIAL DISTRICTS SHALL FILE A STATEMENT WITH THE CLERK OF THE BOARD OF SUPERVISORS STATING WHERE ALL NOTICES OF THEIR MEETINGS AND THE MEETINGS OF THEIR COMMITTEES AND SUBCOMMITTEES WILL BE POSTED AND SHALL GIVE SUCH PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO THE TIME AND PLACE OF ALL REGULAR MEETINGS.

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3. THE CITIES AND TOWNS AND THEIR AGENCIES, BOARDS AND COMMISSIONS SHALL FILE A STATEMENT WITH THE CITY CLERK OR MAYOR'S OFFICE STATING WHERE ALL NOTICES OF THEIR MEETINGS AND THE MEETINGS OF THEIR COMMITTEES AND SUBCOMMITTEES WILL BE POSTED AND SHALL GIVE SUCH PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO THE TIME AND PLACE OF ALL REGULAR MEETINGS.

B. IF AN EXECUTIVE SESSION ONLY WILL BE HELD, THE NOTICE SHALL BE GIVEN TO THE MEMBERS OF THE GOVERNING BODY, AND TO THE GENERAL PUBLIC, STATING THE SPECIFIC PROVISION OF LAW AUTHORIZING THE EXECUTIVE SESSION.

C. MEETINGS OTHER THAN REGULARLY SCHEDULED MEETINGS SHALL NOT BE HELD WITHOUT AT LEAST TWENTY-FOUR HOURS' NOTICE TO THE MEMBERS OF THE GOVERNING BODY AND THE GENERAL PUBLIC. IN CASE OF AN ACTUAL EMERGENCY, A MEETING MAY BE HELD UPON SUCH NOTICE AS IS APPROPRIATE TO THE CIRCUMSTANCES.

D. A MEETING CAN BE RECESSED AND HELD WITH SHORTER NOTICE IF PUBLIC NOTICE IS GIVEN AS REQUIRED IN PARAGRAPH A OF THIS SECTION.

**Sec. 5. Repeal**

Section 38-431.05, Arizona Revised Statutes, is repealed.

Sec. 6. Title 38, chapter 3, article 3.1, Arizona Revised Statutes, is amended by renumbering sections 38-431.03 and 38-431.04 as sections 38-431.04 and 38-431.05 respectively and by adding a new section 38-431.03, to read:

**38-431.03. Nonapplicability to executive sessions**

A. THIS ARTICLE SHALL NOT BE CONSTRUED TO PREVENT GOVERNING BODIES, UPON MAJORITY VOTE OF THE MEMBERS CONSTITUTING A QUORUM, FROM HOLDING EXECUTIVE SESSION FOR ONLY THE FOLLOWING PURPOSES:

1. DISCUSSION OR CONSIDERATION OF EMPLOYMENT,

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ASSIGNMENT, APPOINTMENT, PROMOTION, DEMOTION SALARIES, DISCIPLINING OR RESIGNATION OF A PUBLIC OFFICER, APPOINTEE OR EMPLOYEE OF ANY GOVERNING BODY, EXCEPT THAT WITH THE EXCEPTION OF SALARY DISCUSSIONS, AN OFFICER, APPOINTEE OR EMPLOYEE MAY DEMAND THAT SUCH DISCUSSION OR CONSIDERATION OCCUR AT A PUBLIC MEETING.

2. DISCUSSION OR CONSIDERATION OF RECORDS EXEMPT BY LAW FROM PUBLIC INSPECTION.

3. DISCUSSION OR CONSULTATION FOR ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE GOVERNING BODY.

4. DISCUSSIONS OR CONSULTATIONS WITH REPRESENTATIVES OR EMPLOYEE ORGANIZATIONS REGARDING THE SALARIES, SALARY SCHEDULES OR COMPENSATION PAID IN THE FORM OF FRINGE BENEFITS OF EMPLOYEES IN ORDER TO REVIEW ITS POSITION AND INSTRUCT ITS DESIGNATED REPRESENTATIVES.

5. DISCUSSION, CONSULTATION, OR CONSIDERATION FOR INTERNATIONAL AND INTERSTATE NEGOTIATIONS.

B. MINUTES OF EXECUTIVE SESSIONS SHALL BE KEPT CONFIDENTIAL EXCEPT FROM MEMBERS OF THE GOVERNING BODY WHICH MET IN EXECUTIVE SESSION.

C. NO EXECUTIVE SESSION MAY BE HELD FOR THE PURPOSE OF TAKING ANY FINAL ACTION OR MAKING ANY FINAL DECISION.

Sec. 7. Title 38, chapter 3, article 3.1, Arizona Revised Statutes, is amended by adding sections 38-431.07 and 38-431.08 to read:

**38-431.07. Equitable relief**

ANY PERSON AFFECTED BY A DECISION OF A GOVERNING BODY MAY COMMENCE A SUIT IN THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE GOVERNING BODY ORDINARILY MEETS, FOR THE PURPOSE OF REQUIRING COMPLIANCE WITH, OR THE

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PREVENTION OF VIOLATIONS OF THIS ARTICLE, BY MEMBERS OF THE GOVERNING BODY, OR TO DETERMINE THE APPLICABILITY OF THIS ARTICLE TO MATTERS OR DECISIONS OF THE GOVERNING BODY. THE COURT MAY ORDER SUCH EQUITABLE RELIEF AS IT DEEMS APPROPRIATE IN THE CIRCUMSTANCES. THE COURT MAY ORDER PAYMENT TO A SUCCESSFUL PLAINTIFF IN A SUIT BROUGHT UNDER THIS SECTION OF HIS REASONABLE ATTORNEY'S FEES, BY THE GOVERNING BODY OF WHICH IT IS A PART OR TO WHICH IT REPORTS.

**38-431.08. Exceptions**

THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO ANY JUDICIAL PROCEEDING OR ANY POLITICAL CAUCUS.

**Sec. 8. Emergency**

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

This bill having remained with the Governor 10 days, Sundays excluded, and the Legislature having adjourned, it has become a law without his signature.

Filed in the Office of the Secretary of State—May 22, 1974