

AZ Legislative Branch Position on Conflict of Interest Adopted 2017

Position: LWVAZ supports strong, enforceable conflict of interest legislation.

Expansion of the position statement: Public service is a public trust, requiring officials and employees to place loyalty to the citizens, the laws, and ethical principles above private gain. Following ethical guidelines and eliminating any improprieties, or even the appearance of potential corruption, is imperative to restoring the public's trust in government.

The public has a right to expect public officials to put interests of the general citizenry above those of the personal interest of the official, his/her family, any special interest groups or dark money groups that may have or continue to provide financial support to them.

The League of Women Voters of Arizona supports strict adherence to the ethical principles which avoid any improprieties or the appearance thereof by full conflict of interest disclosure and voter recusal provisions.

To determine whether a substantial interest exists, the public officer should ask:

1. Could the decision affect, either positively or negatively, an interest of the officer or employee or the officer's or employee's relative?
2. Is the interest a pecuniary or proprietary interest? Could it affect a financial interest or ownership interest?
3. Is the interest something that is not statutorily designated as a remote interest?

If the answer to each of these questions is yes, then a substantial interest exists that requires disclosure and disqualification by the public officer or employee. The public officer or employee must file a conflict of interest form which fully discloses the substantial interest with the appropriate agency or governmental unit, and must refrain from participating in any manner in discussions or decisions relating to the matter.

Background for this proposed position statement:

The ultimate goal of our league of women voters position statement is to change the behavior of elected and appointed officials in regard to conflict of interests and the public good. The real question is the caveat for Senate and House rules that have been used by some to circumvent the basic conflict of interest and voter recusal provisions spelled out in the state statutes listed in part two of this document.

Part III includes an interpretation of class in the rules of the legislature.

Action Steps. Having a position statement permits us to take the following steps:

- a. The first step is making our members and the general public aware of the need to take action. This step is called awareness! Having a position statement provides the platform for mounting a publicity campaign to make people aware of the problem. Until people are aware that a problem exists nothing happens.
- b. The next step is generating public interest in solving the problem. This of course entails building coalitions of groups with similar interests. With a position statement the league can be a leader in building that coalition. With a coalition of interest groups we can approach the action phase of this project.
- c. The action phase could take a number of different directions. It may involve an active campaign of support for efforts and bills to strengthen legislative rule changes on conflict of interest. It could be a citizens' initiative or it might be a lawsuit. Until we see how steps one and two turn out it will be hard to know which direction this project should take.

The reputation of the league is such that people pay attention to its positions. We believe the time is ripe for the league to take action with a position on conflict of interest and voter recusal provisions. This issue is critical to the issue of public confidence in our representative form of democracy.

Part II: Arizona Agency Handbook:

The Arizona Agency Handbook is intended to provide guidance to State officers and employees and to the lawyers who represent the State or appear before its boards and agencies. The 2014 edition of the Handbook is available on the website of the Attorney General's Office at www.azag.gov.

The 15 page section on Conflict of Interest may be found in Chapter 8. From the handbook:

Arizona law requires public officers and employees to avoid conflicts of interest that might influence or affect their official conduct. Determining whether a conflict of interest exists requires public officers and employees to evaluate statutorily established standards and exceptions to determine whether their personal interests, or those of certain family members, result in a conflict of interest. This Chapter provides general guidelines to assist public officers and employees to determine when conflicts of interest exist, and to avoid conflicts before they arise.

AZ Voter Recusal Provisions (quoted from the table of 50 State Voting Recusal Provisions reported on the website of the National Council of State Legislatures). (<http://www.ncsl.org/research/ethics/50-state-table-voting-recusal-provisions.aspx>):

Arizona Revised Statutes 38-503: *Any public officer (legislators are included) or employee who has, or whose relative has, a substantial interest in any decision of a public agency (legislature is included) shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.*

(NOTE: see underlined section which provides the legal leeway for avoiding strict compliance with the basic conflict of interest requirement):

Senate Rule 15, 29, 30: *Legislators can declare a personal financial interest in a matter when they are called upon to vote. They can either abstain or vote. In either case, they must write a statement describing the matter and the nature of the potential interest as soon as they are aware of the conflict. They must give this public record to the Senate president, the chair of the ethics committee and the secretary of the Senate. If he abstains he must also state the reasons for abstaining before the body and it is recorded in the journal. If they become aware of the conflict during a committee, subcommittee, or caucus meeting, or on the floor, they can report the conflict as soon as possible after adjournment. A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action. A member who has a substantial interest as defined by section 38-502, Arizona Revised Statutes, shall comply with title 38, chapter 3, article 8, Arizona Revised Statutes.*

House Rules 14, 35: *Legislators can declare a personal financial interest in a matter when they are called upon to vote. They can either abstain or vote. In either case, they must write a statement describing the matter and the nature of the potential interest as soon as they are aware of the conflict. When a member declines to vote, the member shall be required to specify the reason. If a member declares a personal financial interest in the question and the member has failed to file a statement pursuant or if the reason given is other than a personal financial interest in the question, a vote of the body can allow him to abstain. If he abstains he must also state the reasons for abstaining before the body and it is recorded in the journal. A member who anticipates taking an action in the discharge of his official duties in which he may have a personal financial interest must prepare a statement describing the matter to be acted upon and the nature of the conflict, and file the statement with the Speaker, chair of the ethics committee and the chief clerk. If they become aware of the conflict during a committee, subcommittee, or caucus meeting, or on the floor, they can report the conflict as soon as possible after adjournment. A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action. A member who has a substantial interest as defined by section 38-502, Arizona Revised Statutes, shall comply with title 38, chapter 3, article 8, Arizona Revised Statutes.*

Part III. The Legislative Rules interpretation by Anna Dolak, Tucson League: By "*class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action*" I do not believe they mean Legislators. It would mean a group of people affected expected to be affected by the legislation, in this case the paid employees of the STO's. In other words, he does not have a conflict of interest because he is not affected any more by the legislation than any other paid employee of the STO by the legislation. That is what the Conflict of Interest legislation is meant to do.