

*Barrett  
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July 22, 1954  
Letter Opinion  
No. 54-189-L

## LAW LIBRARY ARIZONA ATTORNEY GENERAL

Mr. Joe Tea, Warden  
Arizona State Prison  
Florence, Arizona

Re: Employee of the Arizona State Prison  
as a nominee for Justice of the Peace.

Dear Mr. Tea:

This is in response to your oral request of July 21, 1954, for an opinion relative to the following question:

"May an employee of the Arizona State Prison be a nominee for the office of Justice of the Peace and still be employed by the prison?"

An inspection of the Arizona statutes reveals that in several instances officers and employees of various state departments are prohibited from engaging in political activities. As examples, officers and employees of the following departments, to varying degrees, may not engage in political activities, to wit:

The Industrial Commission (Section 56-901 A.C.A. 1939)

The Fish and Game Department (Section 57-106 A.C.A. 1939, as amended)

The State Highway Department (Section 59-108 A.C.A. 1939, as amended)

The Department of Liquor Licenses and Control (Section 72-102 A.C.A. 1939, as amended)

State Institutions for Juveniles (Section 47-409, A.C.A. 1939)

In addition to the above Arizona statutes, the Federal law also contains certain restrictions. Title 5, Section 118K, United States Code, prohibits officers and employees from taking part in political activities where the state or local agency by whom they are employed

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or appointed is financed in whole or in part by loans or grants made by the United States or by any Federal agency.

Our research has not revealed any specific Arizona statute which would prohibit an employee of the State Prison from seeking the office of Justice of the Peace and at the same time retain his employment by the prison. It should be remembered, however, that in the event said employee is elected as Justice of the Peace, a serious question would develop as to his thereafter retaining his prison job due to possible incompatibility of offices and duties. (In this regard see Opinion of the Attorney General No. 53-27, a copy of which will be furnished to you upon request.)

We do not believe that the situation would be altered by an application of the Federal law for the reason that the State Prison is not financed in whole or in part by the United States or any Federal agency.

We trust that the foregoing will adequately answer your question.

Yours very truly,

JAMES P. BARTLETT  
Special Assistant to  
The Attorney General

JPB:elf