House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 41

HOUSE BILL 2229

AN ACT

AMENDING SECTION 15-341, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-341, Arizona Revised Statutes, is amended to read:

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

1. Prescribe and enforce policies and procedures for the governance of the schools, not inconsistent with law or rules prescribed by the state board of education.

2. Maintain the schools established by it for the attendance of each pupil for a period of not less than one hundred seventy-five school days or two hundred school days, as applicable, or its equivalent as approved by the superintendent of public instruction for a school district operating on a year-round operation basis, to offer an educational program on the basis of a four day school week or to offer an alternative kindergarten program on the basis of a three day school week, in each school year, and if the funds of the district are sufficient, for a longer period, and as far as practicable with equal rights and privileges.

3. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character.

4. Manage and control the school property within its district.

5. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools.

6. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.

7. Furnish, repair and insure, at full insurable value, the school property of the district.

8. Construct school buildings on approval by a vote of the district electors.

9. Make in the name of the district conveyances of property belonging to the district and sold by the board.

10. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.

11. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.

12. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.

13. Hold pupils to strict account for disorderly conduct on school property.

14. Discipline students for disorderly conduct on the way to and from school.

15. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the intended purpose of the monies have been made shall be used for reduction of school district taxes for the budget year, except that in the case of accommodation schools the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

16. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in section 15-521, paragraph 3, the parent or legal guardian may request in writing that the governing board review the teacher's decision. Nothing in this paragraph shall be construed to release school districts from any liability relating to a child's promotion or retention.

17. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

18. Use school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district.

19. Make an annual report to the county school superintendent on or before October 1 each year in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

20. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 21 of this subsection and sections 15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

21. Establish a bank account in which the board ~~may~~ during a month MAY deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank account at least monthly to the county treasurer for deposit as provided in paragraph 20 of this subsection and in accordance with the uniform system of financial records.

22. Employ an attorney admitted to practice in this state whose principal practice is in the area of commercial real estate, or a real estate broker who is licensed by this state and who is employed by a reputable commercial real estate company, to negotiate a lease of five or more years for the school district if the governing board decides to enter into a lease of five or more years as lessor of school buildings or grounds as provided in section 15-342, paragraph 7 or 10. Any lease of five or more years negotiated pursuant to this paragraph shall provide that the lessee is

1 responsible for payment of property taxes pursuant to the requirements of
2 section 42-11104.
3 23. Prescribe and enforce policies and procedures for disciplinary
4 action against a teacher who engages in conduct ~~which~~ THAT is a violation of
5 the policies of the governing board but ~~which~~ THAT is not cause for dismissal
6 of the teacher or for revocation of the certificate of the teacher.
7 Disciplinary action may include suspension without pay for a period of time
8 not to exceed ten school days. Disciplinary action shall not include
9 suspension with pay or suspension without pay for a period of time longer
10 than ten school days. The procedures shall include notice, hearing and
11 appeal provisions for violations ~~which~~ THAT are cause for disciplinary
12 action. The governing board may designate a person or persons to act on
13 behalf of the board on these matters.
14 24. Prescribe and enforce policies and procedures for disciplinary
15 action against an administrator who engages in conduct ~~which~~ THAT is a
16 violation of the policies of the governing board regarding duties of
17 administrators but ~~which~~ THAT is not cause for dismissal of the administrator
18 or for revocation of the certificate of the administrator. Disciplinary
19 action may include suspension without pay for a period of time not to exceed
20 ten school days. Disciplinary action shall not include suspension with pay
21 or suspension without pay for a period of time longer than ten school days.
22 The procedures shall include notice, hearing and appeal provisions for
23 violations ~~which~~ THAT are cause for disciplinary action. The governing board
24 may designate a person or persons to act on behalf of the board on these
25 matters. For violations ~~which~~ THAT are cause for dismissal, the provisions
26 of notice, hearing and appeal in chapter 5, article 3 of this title shall
27 apply. The filing of a timely request for a hearing suspends the imposition
28 of a suspension without pay or a dismissal pending completion of the hearing.
29 25. Notwithstanding section 13-3108, prescribe and enforce policies and
30 procedures that prohibit a person from carrying or possessing a weapon on
31 school grounds unless the person is a peace officer or has obtained specific
32 authorization from the school administrator.
33 26. Prescribe and enforce policies and procedures relating to the
34 health and safety of all pupils participating in district sponsored practice
35 sessions, games or other interscholastic athletic activities, including the
36 provision of water. A school district and its employees are immune from
37 civil liability for the consequences of the good faith adoption and
38 implementation of policies and procedures pursuant to this paragraph.
39 27. Prescribe and enforce policies and procedures regarding the smoking
40 of tobacco within school buildings. The policies and procedures shall be
41 adopted in consultation with school district personnel and members of the
42 community and shall state whether smoking is prohibited in school buildings.
43 If smoking in school buildings is not prohibited, the policies and procedures
44 shall clearly state the conditions and circumstances under which smoking is
45 permitted, those areas in a school building ~~which~~ THAT may be designated as

smoking areas and those areas in a school building ~~which~~ THAT may not be designated as smoking areas.

28. Establish an assessment, data gathering and reporting system as prescribed in chapter 7, article 3 of this title.

29. Provide special education programs and related services pursuant to section 15-764, subsection A to all children with disabilities as defined in section 15-761.

30. Administer competency tests prescribed by the state board of education for the graduation of pupils from high school.

31. Secure insurance coverage for all construction projects for purposes of general liability, property damage and workers' compensation and secure performance and payment bonds for all construction projects.

32. Keep on file the resumes of all current and former employees who provide instruction to pupils at a school. Resumes shall include an individual's educational and teaching background and experience in a particular academic content subject area. A school district shall inform parents and guardians of the availability of the resume information and shall make the resume information available for inspection on request of parents and guardians of pupils enrolled at a school. Nothing in this paragraph shall be construed to require any school to release personally identifiable information in relation to any teacher or employee including the teacher's or employee's address, salary, social security number or telephone number.

33. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-604 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. A school district and its employees are immune from liability for any good faith actions taken in furtherance of this paragraph. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meaning prescribed in section 13-105.

34. In conjunction with local law enforcement agencies and local medical facilities, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

35. Annually assign at least one school district employee to participate in a multihazard crisis training program developed or selected by the governing board.

36. Provide written notice to the parents or guardians of all students affected in the school district at least thirty days prior to a public meeting to discuss closing a school within the school district. The notice

shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure no less than thirty days before voting in a public meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from the provisions of this paragraph if it is determined by the governing board that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school.

37. Incorporate instruction on Native American history into appropriate existing curricula.

38. ALLOW THE POSSESSION AND SELF-ADMINISTRATION OF PRESCRIPTION MEDICATION FOR BREATHING DISORDERS IN HANDHELD INHALER DEVICES, BY PUPILS WHO HAVE BEEN PRESCRIBED THAT MEDICATION BY A HEALTH CARE PROFESSIONAL LICENSED PURSUANT TO TITLE 32. THE PUPIL'S NAME ON THE PRESCRIPTION LABEL ON THE MEDICATION CONTAINER OR ON THE HANDHELD INHALER DEVICE AND ANNUAL WRITTEN DOCUMENTATION FROM THE PUPIL'S PARENT OR GUARDIAN TO THE SCHOOL THAT AUTHORIZES POSSESSION AND SELF-ADMINISTRATION SHALL BE SUFFICIENT PROOF THAT THE PUPIL IS ENTITLED TO THE POSSESSION AND SELF-ADMINISTRATION OF THE MEDICATION. A SCHOOL DISTRICT AND ITS EMPLOYEES ARE IMMUNE FROM CIVIL LIABILITY WITH RESPECT TO ALL DECISIONS MADE AND ACTIONS TAKEN THAT ARE BASED ON A GOOD FAITH IMPLEMENTATION OF THE REQUIREMENTS OF THIS PARAGRAPH.

B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this section, the county school superintendent may construct, improve and furnish school buildings or purchase or sell school sites in the conduct of an accommodation school.

C. If any school district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the governing board shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by a school district:

1. Is not abated, extinguished, discharged or merged in the title to the property.

2. Is enforceable in the same manner as other delinquent tax liens.

D. The governing board may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the school district may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the school, including conditions for future expansion of the school

and changes in the operational status of the school that will result in a breach of the agreement.

E. A school district's governing board members and its school council members are immune from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to subsection A of this section and section 15-342. This waiver does not apply if the school district's governing board members or its school council members are guilty of gross negligence or intentional misconduct.

F. A governing board may delegate in writing to a superintendent, principal or head teacher the authority to prescribe procedures that are consistent with the governing board's policies.

G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in an immediate reduction or a reduction within three years of pupil square footage that would cause the school district to fall below the minimum adequate gross square footage requirements prescribed in section 15-2011, subsection C, unless the governing board notifies the school facilities board established by section 15-2001 of the proposed action and receives written approval from the school facilities board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does not exceed one year. The sale of equipment that results in an immediate reduction or a reduction within three years that falls below the equipment requirements prescribed in section 15-2011, subsection B is subject to commensurate withholding of school district capital outlay revenue limit monies pursuant to the direction of the school facilities board. Except as provided in section 15-342, paragraph 10, proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through G of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

I. Until the state board of education and the auditor general adopt rules pursuant to section 15-213, subsection J, a school district may procure construction services, including services for new school construction pursuant to section 15-2041, by the construction-manager-at-risk, design-build and job-order-contracting methods of project delivery as provided in title 41, chapter 23, except that the rules adopted by the director of the department of administration do not apply to procurements pursuant to this subsection. Any procurement commenced pursuant to this subsection may be completed pursuant to this subsection.

APPROVED BY THE GOVERNOR APRIL 11, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2005.

Passed the House February 7, 2005 by the following vote: 58 Ayes, 0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 6, 2005, by the following vote: 28 Ayes, 0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this 6th day of April, 2005 at 2:05 o'clock P. M.

Secretary to the Governor

Approved this 11 day of April, 2005, at 10:15 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State this 11 day of April, 2005, at 1:35 o'clock P. M.

Janice K. Brewer
Secretary of State

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