House Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 112

HOUSE BILL 2764

AN ACT

AMENDING SECTIONS 15-203, 15-1626 AND 15-1802, ARIZONA REVISED STATUTES; RELATING TO EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-203, Arizona Revised Statutes, is amended to read:

15-203. Powers and duties

A. The state board of education shall:

1. Exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose.

2. Keep a record of its proceedings.

3. Make rules for its own government.

4. Determine the policy and work undertaken by it.

5. Appoint its employees, on the recommendation of the superintendent of public instruction.

6. Prescribe the duties of its employees if not prescribed by statute.

7. Delegate to the superintendent of public instruction the execution of board policies and rules.

8. Recommend to the legislature changes or additions to the statutes pertaining to schools.

9. Prepare, publish and distribute reports concerning the educational welfare of this state.

10. Prepare a budget for expenditures necessary for proper maintenance of the board and accomplishment of its purposes and present the budget to the legislature.

11. Aid in the enforcement of laws relating to schools.

12. Prescribe a minimum course of study in the common schools, minimum competency requirements for the promotion of pupils from the third grade and minimum course of study and competency requirements for the promotion of pupils from the eighth grade. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

13. Prescribe minimum course of study and competency requirements for the graduation of pupils from high school. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

14. Supervise and control the certification of persons engaged in instructional work directly as any classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist, principal or superintendent in a school district, including school district preschool programs, or any other educational institution below the community college, college or university level, and prescribe rules for certification, including rules for certification of teachers who have teaching experience and who are trained in other states, which are not unnecessarily restrictive and are substantially similar to the rules prescribed for the certification of teachers trained in this state. Until July 1, 2006, the rules shall require applicants for all certificates for common school instruction to complete a minimum of forty-five classroom hours or three college level credit hours, or the equivalent, of training in research based systematic phonics instruction from a public or private provider. The rules shall not require a teacher to obtain a master's degree or to take any additional graduate courses as a condition of certification or recertification. The rules shall allow a general equivalency diploma to be substituted for a high school diploma in the certification of emergency substitute teachers.

15. Adopt a list of approved tests for determining special education assistance to gifted pupils as defined in and as provided in chapter 7, article 4.1 of this title. The adopted tests shall provide separate scores for quantitative reasoning, verbal reasoning and nonverbal reasoning and shall be capable of providing reliable and valid scores at the highest ranges of the score distribution.

16. Adopt rules governing the methods for the administration of all proficiency examinations.

17. Adopt proficiency examinations for its use. The state board of education shall determine the passing score for the proficiency examination.

18. Include within its budget the cost of contracting for the purchase, distribution and scoring of the examinations as provided in paragraphs 16 and 17 of this subsection.

19. Supervise and control the qualifications of professional nonteaching school personnel and prescribe standards relating to qualifications.

20. Impose such disciplinary action, including the issuance of a letter of censure, suspension, suspension with conditions or revocation of a certificate, upon a finding of immoral or unprofessional conduct.

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

22. Adopt a rule to promote braille literacy pursuant to section 15-214.

23. Adopt rules prescribing procedures for the investigation by the department of education of every written complaint alleging that a certificated person has engaged in immoral conduct.

24. For purposes of federal law, serve as the state board for vocational and technological education and meet at least four times each year solely to execute the powers and duties of the state board for vocational and technological education.

25. Develop and maintain a handbook for use in the schools of this state that provides guidance for the teaching of moral, civic and ethical education. The handbook shall promote existing curriculum frameworks and shall encourage school districts to recognize moral, civic and ethical values within instructional and programmatic educational development programs for the general purpose of instilling character and ethical principles in pupils in kindergarten programs and grades one through twelve.

26. Require pupils to recite the following passage from the declaration of independence for pupils in grades four through six at the commencement of the first class of the day in the schools, except that a pupil shall not be required to participate if the pupil or the pupil's parent or guardian objects:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. . . .

27. Adopt rules that provide for teacher certification reciprocity. The rules shall provide for a one year reciprocal teaching certificate with minimum requirements including valid teacher certification from a state with substantially similar criminal history or teacher fingerprinting requirements and proof of the submission of an application for a fingerprint clearance card pursuant to title 41, chapter 12, article 3.1.

28. Adopt rules that will be in effect until December 31, 2006 and that provide for the presentation of an honorary high school diploma to a person who has never obtained a high school diploma and who meets each of the following requirements:

(a) Is at least sixty-five years of age.

(b) Currently resides in this state.

(c) Provides documented evidence from the Arizona department of veterans' services that the person enlisted in the armed forces of the United States before completing high school in a public or private school.

(d) Was honorably discharged from service with the armed forces of the United States.

29. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the duties of the department of education and that relate to quality of life, trade and economic development in this state in a manner

that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

30. Adopt rules to define and provide guidance to schools as to the activities that would constitute immoral or unprofessional conduct of certificated persons.

31. Adopt guidelines to encourage pupils in grades nine, ten, eleven and twelve to volunteer for twenty hours of community service before graduation from high school. A school district that complies with the guidelines adopted pursuant to this paragraph is not liable for damages resulting from a pupil's participation in community service unless the school district is found to have demonstrated wanton or reckless disregard for the safety of the pupil and other participants in community service. For the purposes of this paragraph, "community service" may include service learning. The guidelines shall include the following:

(a) A list of the general categories in which community service may be performed.

(b) A description of the methods by which community service will be monitored.

(c) A consideration of risk assessment for community service projects.

(d) Orientation and notification procedures of community service opportunities for pupils entering grade nine including the development of a notification form. The notification form shall be signed by the pupil and the pupil's parent or guardian, except that a pupil shall not be required to participate in community service if the parent or guardian notifies the principal of the pupil's school in writing that the parent or guardian does not wish the pupil to participate in community service.

(e) Procedures for a pupil in grade nine to prepare a written proposal that outlines the type of community service that the pupil would like to perform and the goals that the pupil hopes to achieve as a result of community service. The pupil's written proposal shall be reviewed by a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator for that school. The pupil may alter the written proposal at any time before performing community service.

(f) Procedures for a faculty advisor, a guidance counselor or any other school employee who is designated as the community service program coordinator to evaluate and certify the completion of community service performed by pupils.

32. TO FACILITATE THE TRANSFER OF MILITARY PERSONNEL AND THEIR DEPENDENTS TO AND FROM THE PUBLIC SCHOOLS OF THIS STATE, PURSUE, IN COOPERATION WITH THE ARIZONA BOARD OF REGENTS, RECIPROCITY AGREEMENTS WITH OTHER STATES CONCERNING THE TRANSFER CREDITS FOR MILITARY PERSONNEL AND THEIR DEPENDENTS. A RECIPROCITY AGREEMENT ENTERED INTO PURSUANT TO THIS PARAGRAPH SHALL:

(a) ADDRESS PROCEDURES FOR EACH OF THE FOLLOWING:

(i) THE TRANSFER OF STUDENT RECORDS.

(ii) AWARDING CREDIT FOR COMPLETED COURSE WORK.

(iii) PERMITTING A STUDENT TO SATISFY THE GRADUATION REQUIREMENTS PRESCRIBED IN SECTION 15-701.01 THROUGH THE SUCCESSFUL PERFORMANCE ON COMPARABLE EXIT-LEVEL ASSESSMENT INSTRUMENTS ADMINISTERED IN ANOTHER STATE.

(b) INCLUDE APPROPRIATE CRITERIA DEVELOPED BY THE STATE BOARD OF EDUCATION AND THE ARIZONA BOARD OF REGENTS.

B. The state board of education may:

1. Contract.

2. Sue and be sued.

3. Distribute and score the tests prescribed in chapter 7, article 3 of this title.

4. Provide for an advisory committee to conduct hearings and screenings to determine whether grounds exist to impose disciplinary action against a certificated person, whether grounds exist to reinstate a revoked or surrendered certificate and whether grounds exist to approve or deny an initial application for certification or a request for renewal of a certificate. The board may delegate its responsibility to conduct hearings and screenings to its advisory committee. Hearings shall be conducted pursuant to title 41, chapter 6, article 6.

5. Proceed with the disposal of any complaint requesting disciplinary action or with any disciplinary action against a person holding a certificate as prescribed in subsection A, paragraph 14 of this section after the suspension or expiration of the certificate or surrender of the certificate by the holder.

6. Assess costs and reasonable attorney fees against a person who files a frivolous complaint or who files a complaint in bad faith. Costs assessed pursuant to this paragraph shall not exceed the expenses incurred by the state board in the investigation of the complaint.

Sec. 2. Section 15-1626, Arizona Revised Statutes, is amended to read:

15-1626. General administrative powers and duties of board

A. The board shall:

1. Have and exercise the powers necessary for the effective governance and administration of the institutions under its control. To that end, the board may adopt, and authorize each university to adopt, such regulations, policies, rules or measures as are deemed necessary and may delegate in writing to its committees, to its university presidents, or their designees, or to other entities under its control, any part of its authority for the administration and governance of such institutions, including those powers enumerated in section 15-1625, subsection B, paragraphs 2 and 4, paragraphs 3, 4, 7, 8, 10 and 11 of this subsection and subsection B of this section. Any delegation of authority may be rescinded by the board at any time in whole or in part.

2. Appoint and employ and determine the compensation of presidents with such power and authority and for such purposes in connection with the operation of the institutions as the board deems necessary.

3. Appoint and employ and determine the compensation of vice-presidents, deans, professors, instructors, lecturers, fellows and such other officers and employees with such power and authority and for such purposes in connection with the operation of the institutions as the board deems necessary, or delegate its authority pursuant to paragraph 1 of this subsection.

4. Remove any officer or employee when the interests of education in this state so require in accordance with its personnel rules and policies.

5. Fix tuitions and fees to be charged and differentiate the tuitions and fees between institutions and between residents, nonresidents, undergraduate students, graduate students, students from foreign countries and students who have earned credit hours in excess of the credit hour threshold, except students whose chosen program requires for a degree additional credit hours above the credit hour threshold. For the purposes of this paragraph, the credit hour threshold is one hundred fifty-five hours in fiscal year 2006-2007, one hundred fifty hours in fiscal year 2007-2008 and one hundred forty-five hours after fiscal year 2007-2008. The amount of tuition, registration fees and other revenues included in the operating budget for the university adopted by the board as prescribed in paragraph 12 of this subsection shall be deposited, pursuant to sections 35-146 and 35-147. All other tuition and fee revenue shall be retained by each university for expenditure as approved by the board. Except as provided in subsection H of this section, the Arizona board of regents shall adopt rules to govern its tuition and fee setting process that provide for the following:

(a) At least one public hearing at each university as an opportunity for students and members of the public to comment upon any proposed increase in tuition or fees.

(b) Publication of the notice of public hearing at least ten days prior to the hearing in a newspaper of general circulation in Maricopa county, Coconino county and Pima county. The notice shall include the date, time and location of the public hearing.

(c) Public disclosure by each university of any proposed increases in tuition or fees at least ten days prior to the public hearing.

(d) Final board action on changes in tuition or fees shall be taken by roll call vote.

The procedural requirements of subdivisions (a), (b), (c) and (d) apply only to those changes in tuition or fees that require board approval.

6. Pursuant to section 35-115, submit a budget request for each institution under its jurisdiction that includes the estimated tuition and fee revenue available to support the programs of the institution as described in the budget request. The estimated available tuition and fee revenue shall be based on the tuition and registration fee rates in effect at the time the

budget request is submitted with adjustments for projected changes in enrollment as provided by the board.

7. Establish curriculums and designate courses at the several institutions which in its judgment will best serve the interests of this state.

8. Award such degrees and diplomas upon the completion of such courses and curriculum requirements as it deems appropriate.

9. Prescribe qualifications for admission of all students to the universities. The board shall establish policies for guaranteed admission that assure fair and equitable access to students in this state from public, private, charter and home schools. For the purpose of determining the qualifications of honorably discharged veterans, veterans are those persons who served in the armed forces for a minimum of two years and who were previously enrolled at a university or community college in this state. No prior failing grades received by the veteran at the university or community college in this state may be considered.

10. Adopt any energy conservation standards promulgated by the department of administration for the construction of new buildings.

11. Employ for such time and purposes as the board requires attorneys whose compensation shall be fixed and paid by the board. Litigation to which the board is a party and for which self-insurance is not provided may be compromised or settled at the direction of the board.

12. Adopt annually an operating budget for each university equal to the sum of appropriated general fund monies and the amount of tuition, registration fees and other revenues approved by the board and allocated to each university operating budget.

13. In consultation with the state board of education and other education groups, develop and implement a program to award honors endorsements to be affixed to the high school diplomas of qualifying high school pupils and to be included in the transcripts of pupils who are awarded endorsements. The board shall develop application procedures and testing criteria and adopt testing instruments and procedures to administer the program. In order to receive an honors endorsement, a pupil must demonstrate an extraordinary level of knowledge, skill and competency as measured by the testing instruments adopted by the board in mathematics, English, science and social studies. Additional subjects may be added at the determination of the board. The program is voluntary for pupils.

14. Require the publisher of each literary and nonliterary textbook used in the universities of this state to furnish computer software in a standardized format when software becomes available for nonliterary textbooks, to the Arizona board of regents from which braille versions of the textbooks may be produced.

15. Require universities that provide a degree in education to require courses that are necessary to obtain a provisional structured English immersion endorsement as prescribed by the state board of education.

16. TO FACILITATE THE TRANSFER OF MILITARY PERSONNEL AND THEIR DEPENDENTS TO AND FROM THE PUBLIC SCHOOLS OF THIS STATE, PURSUE, IN COOPERATION WITH THE STATE BOARD OF EDUCATION, RECIPROCITY AGREEMENTS WITH OTHER STATES CONCERNING THE TRANSFER CREDITS FOR MILITARY PERSONNEL AND THEIR DEPENDENTS. A RECIPROCITY AGREEMENT ENTERED INTO PURSUANT TO THIS PARAGRAPH SHALL:

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(b) INCLUDE APPROPRIATE CRITERIA DEVELOPED BY THE STATE BOARD OF EDUCATION AND THE ARIZONA BOARD OF REGENTS.

B. The board shall adopt personnel rules. All nonacademic employees of the universities are subject to these rules except for university presidents, university vice-presidents, university deans, legal counsel and administrative officers. The personnel rules shall be similar to the personnel rules under section 41-783. The rules shall include provisions for listing available positions with the department of economic security, competitive employment processes for applicants, probationary status for new nonacademic employees, nonprobationary status on successful completion of probation and due process protections of nonprobationary employees after discharge. The board shall provide notice of proposed rule adoption and an opportunity for public comment on all personnel rules proposed for adoption.

C. The ~~Arizona~~ board ~~of regents~~ may employ legal assistance in procuring loans for the institutions from the United States government. Fees or compensation paid for such legal assistance shall not be a claim upon the general fund of this state but shall be paid from funds of the institutions.

D. The board shall approve or disapprove any contract or agreement entered into by the university of Arizona hospital with the Arizona health facilities authority.

E. The board may adopt policies which authorize the institutions under its jurisdiction to enter into employment contracts with nontenured employees for periods of more than one year but not more than five years. The policies shall prescribe limitations on the authority of the institutions to enter into employment contracts for periods of more than one year but not more than five years, including the requirement that the board approve the contracts.

F. The board may adopt a plan or plans for employee benefits which allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986.

G. The board may establish a program for the exchange of students between the universities under the jurisdiction of the board and colleges and universities located in the state of Sonora, Mexico. Notwithstanding subsection A, paragraph 5 of this section, the program may provide for

in-state tuition at the universities under the jurisdiction of the board for fifty Sonoran students in exchange for similar tuition provisions for up to fifty Arizona students enrolled or seeking enrollment in Sonoran colleges or universities. The board may direct the universities to work in conjunction with the Arizona-Mexico commission to coordinate recruitment and admissions activities.

H. Subsection A, paragraph 5, subdivisions (a), (b), (c) and (d) of this section do not apply to fee increases that are set by individual universities and that do not require approval by the Arizona board of regents before the fee increase becomes effective.

Sec. 3. Section 15-1802, Arizona Revised Statutes, is amended to read:

15-1802. <u>In-state student status</u>

A. Except as otherwise provided in this article, no person having a domicile elsewhere than in this state is eligible for classification as an in-state student for tuition purposes.

B. A person is not entitled to classification as an in-state student until the person is domiciled in this state for one year, except that a person whose domicile is in this state is entitled to classification as an in-state student if the person meets one of the following requirements:

1. The person's parent's domicile is in this state and the parent is entitled to claim the person as an exemption for state and federal tax purposes.

2. The person is an employee of an employer that transferred the person to this state for employment purposes or the person is the spouse of such an employee.

3. The person is an employee of a school district in this state and is under contract to teach on a full-time basis or is employed as a full-time noncertified classroom aide at a school within that school district. For the purposes of this paragraph, the person is eligible for classification as an in-state student only for courses necessary to complete the requirements for certification by the state board of education to teach in a school district in this state. No member of the person's family is eligible for classification as an in-state student if the person is eligible for classification as an in-state student pursuant to this paragraph, unless the family member is otherwise eligible for classification as an in-state student pursuant to this section.

4. The person's spouse has established domicile in this state for at least one year and has demonstrated intent and financial independence and is entitled to claim the student as an exemption for state and federal tax purposes or the person's spouse was temporarily out of state for educational purposes, but maintained a domicile in this state. If the person is a noncitizen, the person must be in an eligible visa status pursuant to federal law to classify as an in-state student for tuition purposes.

C. The domicile of an unemancipated person is that of the person's parent.

D. Any unemancipated person who remains in this state when the person's parent, who had been domiciled in this state, removes from this state is entitled to classification as an in-state student until attainment of the degree for which currently enrolled, as long as the person maintains continuous attendance.

E. A person who is a member of the armed forces of the United States and who is stationed in this state pursuant to military orders or who is the spouse or a dependent child as defined in section 43-1001 of a person who is a member of the armed forces of the United States and who is stationed in this state pursuant to military orders is entitled to classification as an in-state student. A SPOUSE OR A DEPENDENT CHILD DOES NOT LOSE IN-STATE STUDENT CLASSIFICATION UNDER THIS SUBSECTION IF THE SPOUSE OR DEPENDENT CHILD QUALIFIES FOR IN-STATE TUITION CLASSIFICATION AT THE TIME THE SPOUSE OR DEPENDENT CHILD IS ACCEPTED FOR ADMISSION TO A COMMUNITY COLLEGE UNDER THE JURISDICTION OF A COMMUNITY COLLEGE DISTRICT GOVERNING BOARD OR A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS. The student, while in continuous attendance toward the degree for which currently enrolled, does not lose in-state student classification.

F. A person who is a member of the armed forces of the United States or the spouse or a dependent as defined in section 43-1001 of a member of the armed forces of the United States is entitled to classification as an in-state student if the member of the armed forces has claimed this state as the person's state of legal residence for at least twelve consecutive months before the member of the armed forces, spouse or dependent enrolls in a university under the jurisdiction of the Arizona board of regents or a community college under the jurisdiction of a community college district governing board. For the purposes of this subsection, the requirement that a person be domiciled in this state for one year before enrollment to qualify for in-state student classification does not apply.

G. A person who is honorably discharged from the armed forces of the United States shall be granted immediate classification as an in-state student on honorable discharge from the armed forces and, while in continuous attendance toward the degree for which currently enrolled, does not lose in-state student classification if the person has met all of the following requirements:

1. Declared Arizona as the person's legal residence with the person's branch of service at least one year prior to discharge from the armed forces.

2. Demonstrated objective evidence of intent to be a resident of Arizona which, for the purposes of this section, includes at least one of the following:

(a) An Arizona driver license.

(b) Arizona motor vehicle registration.

(c) Employment history in Arizona.

(d) Arizona voter registration.

(e) Transfer of major banking services to Arizona.

1 (f) Change of permanent address on all pertinent records.
2 (g) Other materials of whatever kind or source relevant to domicile or
3 residency status.
4 3. Filed an Arizona income tax return with the department of revenue
5 during the previous tax year.
6 H. A person who is a member of an Indian tribe recognized by the
7 United States department of the interior whose reservation land lies in this
8 state and extends into another state and who is a resident of the reservation
9 is entitled to classification as an in-state student.

APPROVED BY THE GOVERNOR APRIL 12, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2006.