

Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 194

SENATE BILL 1392

AN ACT

AMENDING SECTION 15-1635.01, ARIZONA REVISED STATUTES; RELATING TO
UNIVERSITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-1635.01, Arizona Revised Statutes, is amended to
3 read:

4 15-1635.01. Transfer of technology developed by universities;
5 intellectual property policies; officer or
6 employee interest in private entity

7 A. ~~To encourage sponsored research at institutions under the~~
8 ~~jurisdiction of the Arizona board of regents and to encourage transfer of~~
9 ~~such technology to the private sector~~ THE EXCHANGE OF TECHNOLOGICAL
10 EXPERTISE, NEW RESEARCH DEVELOPMENT AND OTHER VALUABLE INFORMATION BETWEEN
11 PRIVATE ENTERPRISE AND THE UNIVERSITY SYSTEM IN THIS STATE AND TO FACILITATE
12 THE TRANSFER OF TECHNOLOGY DEVELOPED BY OFFICERS OR EMPLOYEES OF UNIVERSITIES
13 UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS TO COMMERCIAL,
14 NONPROFIT AND ENTREPRENEURIAL ENTERPRISES FOR THE ECONOMIC DEVELOPMENT OF
15 THIS STATE AND FOR THE PUBLIC BENEFIT, the Arizona board of regents shall
16 ~~consider the establishment of patent~~ MAINTAIN INTELLECTUAL PROPERTY policies
17 ~~which permit~~ THAT ALLOW, on a case-by-case negotiated basis, ~~either the~~
18 ~~giving of title or the granting of licenses to the sponsor of the research~~
19 LICENSING, ASSIGNMENT OR OTHER TRANSFER OF INTELLECTUAL PROPERTY OWNED BY THE
20 BOARD TO THIRD PARTIES IF THE TRANSFER IS IN THE BEST INTEREST OF THIS STATE
21 AND THE UNIVERSITY SYSTEM OR THE TRANSFER OTHERWISE PROMOTES THE
22 DISSEMINATION OF UNIVERSITY RESEARCH FOR THE PUBLIC BENEFIT.

23 B. Notwithstanding title 38, chapter 3, article 8, THE ARIZONA BOARD
24 OF REGENTS, A UNIVERSITY OR AN ENTITY AUTHORIZED TO MANAGE INTELLECTUAL
25 PROPERTY ON BEHALF OF THE BOARD OR A UNIVERSITY MAY ENTER INTO AGREEMENTS TO
26 TRANSFER INTELLECTUAL PROPERTY OWNED BY THE BOARD TO an officer or employee
27 of an institution under the jurisdiction of the Arizona board of regents ~~may,~~
28 ~~subject to subsection C, apply to the board for permission to establish and~~
29 ~~maintain a substantial interest in a private entity which supplies equipment,~~
30 ~~material, supplies or services to the institution in order to facilitate the~~
31 ~~transfer of technology developed by the officer or employee of an institution~~
32 ~~under the jurisdiction of the board from the institution to commercial and~~
33 ~~industrial enterprises for the economic development of this state OR TO AN~~
34 ENTITY IN WHICH AN OFFICER OR EMPLOYEE MAINTAINS A SUBSTANTIAL INTEREST AS
35 DEFINED BY SECTION 38-502.

36 C. ~~Before an officer or employee makes an application to the board~~
37 ~~pursuant to subsection B, the officer or employee must receive the approval~~
38 ~~of the president of the institution at which he is employed. The president~~
39 ~~of the institution may grant approval and the officer or employee may submit~~
40 ~~the application to the board only if all of the following conditions are met:~~

41 1. ~~The officer or employee provides a detailed description of his~~
42 ~~interest in the private entity to the president.~~

43 2. ~~The nature of the private entity's proposed undertaking is fully~~
44 ~~described to the president.~~

1 ~~3. The officer or employee demonstrates to the satisfaction of the~~
2 ~~president that the proposed undertaking will benefit the economy of this~~
3 ~~state by contributing to the development of private enterprise.~~
4 ~~4. The proposed undertaking does not violate any existing contracts.~~
5 ~~5. The officer or employee demonstrates to the satisfaction of the~~
6 ~~president that the proposed undertaking will not adversely affect research,~~
7 ~~public service or instructional activities at the institution.~~
8 ~~6. The officer's or employee's interest in the private entity or~~
9 ~~benefit from the interest will not adversely affect any state interest.~~
10 ~~D. The board may authorize an officer or employee of one of the~~
11 ~~institutions under its jurisdiction to establish and maintain a substantial~~
12 ~~interest in a private entity if all of the following conditions are met:~~
13 ~~1. The application is approved by the president of the institution at~~
14 ~~which the officer or employee is employed.~~
15 ~~2. The application contains a detailed description of the officer's or~~
16 ~~employee's interest in the private entity.~~
17 ~~3. The application contains a detailed description of the private~~
18 ~~entity's proposed undertaking.~~
19 ~~4. The application demonstrates to the satisfaction of the board that~~
20 ~~the proposed undertaking will benefit the economy of this state by~~
21 ~~contributing to the development of private enterprise.~~
22 ~~5. The proposed undertaking does not violate any existing contracts.~~
23 ~~6. The application demonstrates to the satisfaction of the board that~~
24 ~~the proposed undertaking will not adversely affect research, public service~~
25 ~~or instructional activities at the institutions under the jurisdiction of the~~
26 ~~board.~~
27 ~~7. The officer's or employee's interest in the private entity or~~
28 ~~benefit from the interest will not adversely affect any state interest.~~
29 ~~E. On recommendation of the board, the president of the institution at~~
30 ~~which the officer or employee is employed may require that the institution~~
31 ~~have a share in any royalties or other proceeds from the proposed undertaking~~
32 ~~of the private entity.~~
33 ~~F. If the technology was developed solely using monies from a private~~
34 ~~sector sponsor, the board shall not authorize an officer or employee of an~~
35 ~~institution under its jurisdiction to establish and maintain a substantial~~
36 ~~interest in a private entity which would exploit that technology unless the~~
37 ~~board determines that patent, licensing and royalty rights are in accordance~~
38 ~~with the provisions of the agreement under which the technology was~~
39 ~~developed.~~
40 C. BEFORE CONCLUDING AN AGREEMENT FOR THE TRANSFER OF ANY INTELLECTUAL
41 PROPERTY OWNED BY THE ARIZONA BOARD OF REGENTS TO AN OFFICER OR EMPLOYEE OF
42 THE BOARD OR A UNIVERSITY OR TO AN ENTITY IN WHICH AN OFFICER OR EMPLOYEE OF
43 THE BOARD OR A UNIVERSITY MAINTAINS A SUBSTANTIAL INTEREST, THE BOARD OR
44 UNIVERSITY SHALL DO ALL OF THE FOLLOWING:

- 1 1. IDENTIFY, ON A CASE-BY-CASE BASIS, INDIVIDUAL AND INSTITUTIONAL
- 2 CONFLICTS OF INTEREST AND CONFLICTS OF COMMITMENT THAT MAY ARISE AS A RESULT
- 3 OF THE PROPOSED TRANSFER.
- 4 2. DETERMINE WHETHER THE POTENTIAL CONFLICTS ARE MANAGEABLE.
- 5 3. IF THE POTENTIAL CONFLICTS ARE MANAGEABLE, DEVELOP A CONFLICT
- 6 MANAGEMENT PLAN AND ENTER INTO AGREEMENTS AS NECESSARY FOR THE APPROPRIATE
- 7 MANAGEMENT AND OVERSIGHT OF THE POTENTIAL CONFLICTS IN CONFORMANCE WITH
- 8 POLICIES OF THE ARIZONA BOARD OF REGENTS AND THE UNIVERSITY.
- 9 ~~G.~~ D. The board ~~may establish~~ SHALL MAINTAIN APPROPRIATE policies AND
- 10 PROCEDURES for the implementation of this section.

APPROVED BY THE GOVERNOR APRIL 23, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2014.

Passed the House April 17, 2014,

Passed the Senate March 6, 2014,

by the following vote: 54 Ayes,

by the following vote: 26 Ayes,

4 Nays, 2 Not Voting

1 Nays, 3 Not Voting


Speaker of the House


President of the Senate


Cheryl Laube
Chief Clerk of the House


Susan Reeves
Assistant
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21 day of April, 2014,

at 11:30 o'clock A M.


Mikhaela Howard
Secretary to the Governor

Approved this 23rd day of

April, 2014,

at 10:25 o'clock A M.


Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24th day of April, 2014,

at 8:57 o'clock a M.


Klu Blumett
Secretary of State

S.B. 1392