Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 213

HOUSE BILL 2577

AN ACT

AMENDING SECTIONS 15-1444 AND 15-1626, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 13, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1747; AMENDING SECTION 32-3003, ARIZONA REVISED STATUTES; RELATING TO HIGHER EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-1444, Arizona Revised Statutes, is amended to read:

15-1444. General powers and duties of district governing boards

A. Except as otherwise provided, the district board shall:

1. Maintain each community college for a period of not less than eight months in each year and, if the funds of the district are sufficient, maintain each community college for a longer period.

2. Adopt policies in a public forum to offer programs that meet the educational needs of the population served by the community college.

3. Enforce the courses of study prescribed by the district board.

4. Visit each community college under its jurisdiction and examine carefully into its management, conditions and needs.

5. Exclude from each community college all books, publications or papers of a sectarian, partisan or denominational character intended for use as textbooks.

6. Appoint and employ a chancellor or chancellors, vice-chancellors, a president or presidents, vice-presidents, deans, professors, instructors, lecturers, fellows and such other officers and employees it deems necessary. The district board may enter into employment contracts with chancellors, vice-chancellors and presidents for a duration of more than one year but not more than five years.

7. Determine the salaries of persons it appoints and employs.

8. Remove any officer or employee if in its judgment the interests of education in this state require the removal.

9. Award degrees, certificates and diplomas on the completion of courses and curriculum as it deems appropriate.

10. Appoint or employ, if it deems necessary, police officers who shall have the authority and power of peace officers. The police officers who have received a certificate from the Arizona peace officer standards and training board are eligible for membership in and benefits under either title 38, chapter 5, article 2 or the public safety personnel retirement system under title 38, chapter 5, article 4.

11. Determine the location within the district of a community college and purchase, receive, hold, make and take leases of, sell and convey real or personal property for the benefit of the community colleges under its jurisdiction.

12. Obtain insurance or be self-insured, or a combination of insurance and self-insurance, against loss, to the extent it is determined necessary on community college buildings of the district. The local district shall have an insurable interest in the buildings.

B. The district board may:

1. Administer trusts declared or created for the district and receive by gift or devise and hold in trust or otherwise property wheresoever

located, and if not otherwise provided, dispose of the property for the benefit of the district.

2. Lease real property, as lessor or as lessee. If a district is the lessee, the lease may contain an option to purchase the property. The district board may adopt policies as are deemed necessary and may delegate in writing to the chancellor or president of the district, or their designees, all or any part of its authority to lease property under this paragraph. Any delegation by the district board pursuant to this paragraph may be rescinded in whole or in part at any time by the district board.

3. Sue and be sued.

4. Contract. The district board may adopt such policies as are deemed necessary and may delegate in writing to the chancellor or president of the district, or their designees, all or any part of its authority to contract under this paragraph. Any delegation of authority under this paragraph may be rescinded by the district board at any time in whole or in part.

5. Construct, remodel and repair buildings.

6. In conjunction with other districts, establish policies for procurement of goods and services.

7. Provide a plan or plans for employee benefits, which may include optional retirement programs pursuant to section 15-1451, subsection A, which allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986.

8. Accept grants or donations of monies from the United States, or from any of its agencies, departments or officers, or from persons, corporations, foundations or associations. A district board shall deposit the monies into a specific fund or account and a district board shall administer the monies in accordance with the purpose of the grant or donation with specific policies or restrictions as described or stipulated in the grant or donation. In the case of personal property granted or donated to or for the benefit of a community college district, a district board shall immediately transfer possession and ownership of the property to the designated district.

9. Enter into intergovernmental agreements or contracts pursuant to section 11-952.01 for participation in programs offered by public agency pools or separately contract with a trustee or board of trustees that provides a common self-insurance program with pooled funds and risks pursuant to section 15-382, subsection B, paragraph 2. The district board is not required to engage in competitive procurement in order to make the decision to participate in these programs.

10. Name a building or a group of buildings that is located on a community college campus on behalf of a person or entity that has made a significant contribution of monies or other property to the community college or the community college district.

11. Enter into research and development agreements, royalty agreements, development agreements, licensing agreements and profit-sharing agreements

concerning the research, development, production, storing or marketing of new products developed or to be developed through community college district research.

12. ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO SECTION 15-1747 TO PARTICIPATE IN A RECIPROCITY AGREEMENT SUBJECT TO THE TERMS OF THE RECIPROCITY AGREEMENT.

C. If a district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the district 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 the 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. In a district whose boundaries encompass a vehicle emissions control area as defined in section 49-541, the district board shall require all out-of-county and out-of-state students to sign an affidavit at the time of course registration that the student's vehicle meets the requirements of section 49-542. The district board on property under its jurisdiction within a vehicle emissions control area shall prohibit the parking of those vehicles that fail to comply with section 49-542.

E. A community college district and a joint technical education district governing board may enter into agreements for the provision of administrative, operational and educational services and facilities.

F. Each district may establish a program for the exchange of students between the community colleges under its jurisdiction and colleges and universities located in Sonora, Mexico. The program may provide for in-state tuition for Sonora students at the community colleges under the jurisdiction of the district in exchange for similar tuition provisions for Arizona students enrolled or seeking enrollment in Sonora colleges and universities. The community colleges may work in conjunction with the Arizona-Mexico commission in the governor's office to coordinate recruitment and admissions activities to provide for in-state tuition for up to fifty Sonora students at the community colleges under the jurisdiction of the district in exchange for similar tuition provisions for up to fifty total Arizona students enrolled or seeking enrollment in Sonora colleges and universities.

G. Each district shall facilitate transfer articulation coordination pursuant to section 15-1824.

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

15-1626. General administrative powers and duties of board; definition

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, 8, 9, 11 and 12 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. For the purposes of this paragraph, the undergraduate credit hour threshold is one hundred forty-five hours for students who attend a university under the jurisdiction of the board. The undergraduate credit hour threshold shall be based on the actual full-time equivalent student enrollment counted on the forty-fifth day of every fall and spring semester, divided by two, and any budget adjustment based on student enrollment shall occur in the fiscal year following the actual full-time equivalent student enrollment count. The undergraduate credit hour threshold shall not apply to degree programs that require credit hours above the credit hour threshold, credits earned in the pursuit of up to two baccalaureate degrees, credits earned in the pursuit of up to two state regulated licensures or certificates, credits earned in the pursuit of teaching certification, credits transferred from a private institution of higher education, credits transferred from an institution of higher education in another state, credits earned at another institution of higher education but that are not accepted as transfer credits at the university where the student is currently enrolled and credits earned by students who enroll at a university under the jurisdiction of the board more than twenty-four months after the end of that student's previous enrollment at a public institution of higher education in this state. On or before October 15 of each year, the board shall report to the joint legislative budget committee the number of in-state students and

out-of-state students who were enrolled at universities under the jurisdiction of the board during the previous fiscal year who met or exceeded the undergraduate credit hour threshold prescribed in this paragraph. 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 13 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 that the universities shall not use any tuition or fee revenue to fund or support an alumni association.

6. Except as provided in subsection I of this section, 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 on 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) of this paragraph apply only to those changes in tuition or fees that require board approval.

7. 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.

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

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

10. 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 and charter schools and homeschools. 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.

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

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. Acquire United States flags for each classroom that are manufactured in the United States and that are at least two feet by three feet and hardware to appropriately display the United States flags, acquire a legible copy of the Constitution of the United States and the Bill of Rights, display the flags in each classroom in accordance with title 4 of the United States Code and display a legible copy of the Constitution of the United States and the Bill of Rights adjacent to the flag.

18. 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:

(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.

19. Require a university to publicly post notices of all of its employment openings, including the title and description, instructions for applying and relevant contact information.

20. In consultation with the community college districts in this state, develop and implement common equivalencies for specific levels of achievement on advanced placement examinations and international baccalaureate examinations in order to award commensurate postsecondary academic credits at community colleges and public universities in this state.

21. On or before August 1 of each year, report to the joint legislative budget committee the graduation rate by university campus during the previous fiscal year. The board shall also report the retention rate by university campus and by class, as determined by date of entry during the previous fiscal year.

B. The board shall adopt personnel policies for all employees of the board and the universities.

C. In conjunction with the auditor general, the board shall develop a uniform accounting and reporting system, which shall be reviewed by the joint legislative budget committee before final adoption by the board. The board shall require each university to comply with the uniform accounting and reporting system.

D. The board 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 on the general fund of this state but shall be paid from funds of the institutions.

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

F. The board may adopt policies that 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.

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

H. 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.

I. Subsection A, paragraph 6, 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.

J. ~~On or before July 1, 2012,~~ The Arizona board of regents, in collaboration with the universities under its jurisdiction, shall adopt a performance funding model. The performance funding model shall use performance metrics that include the increase in degrees awarded, the increase in completed student credit hours and the increase in externally generated research and public service funding. The funding formula may give added weight to degrees related to science, technology, engineering and mathematics and other high-value degrees that are in short supply or that are essential to this state's long-term economic development strategy.

K. The Arizona board of regents shall use the performance funding model adopted pursuant to subsection J of this section in developing and submitting budget requests for the universities under its jurisdiction.

L. On or before November 1 of each year, the Arizona board of regents shall submit to the joint legislative budget committee and the governor's office of strategic planning and budgeting a report on university debt and obligations, including:

1. Long-term notes and obligations.

2. Certificates of participation and other obligations pursuant to any lease-purchase agreements.

3. Revenue bonds.

4. Bonds issued pursuant to section 15-1682.03.

M. The report issued pursuant to subsection L of this section shall contain, for the most recent fiscal year:

1. The aggregate level of outstanding principal and the principal and interest payments, by type of debt or obligation.

2. An itemization, by campus and project, of the amount of yearly principal and interest to be paid in the most recent and the next five fiscal years.

N. THE BOARD MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO SECTION 15-1747 TO MANAGE UNIVERSITIES UNDER ITS JURISDICTION SUBJECT TO THE TERMS OF THE RECIPROCITY AGREEMENT.

~~N.~~ O. For the purposes of this section, "university debt and obligations" means debt and obligations, the principal and interest of which are paid in whole or in part with university monies.

Sec. 3. Title 15, chapter 13, article 8, Arizona Revised Statutes, is amended by adding section 15-1747, to read:

15-1747. Reciprocity agreements for distance education; definition

A. THE ARIZONA BOARD OF REGENTS, COMMUNITY COLLEGE DISTRICTS AND THE STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION, THROUGH INTERGOVERNMENTAL AGREEMENT, MAY ENTER INTO AN INTERSTATE RECIPROCITY AGREEMENT FOR THE PURPOSE OF MANAGING POSTSECONDARY DISTANCE EDUCATION.

B. THE INTERGOVERNMENTAL AGREEMENT PURSUANT TO SUBSECTION A OF THIS SECTION, AT A MINIMUM, MUST IDENTIFY THE PROCESS FOR THE APPLICATION TO PARTICIPATE IN THE INTERSTATE RECIPROCITY AGREEMENT AND BE ADMINISTERED JOINTLY BY REPRESENTATIVES FROM THE ARIZONA BOARD OF REGENTS, REPRESENTATIVES FROM THE STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION AND REPRESENTATIVES FROM A COMMUNITY COLLEGE DISTRICT IN THIS STATE. THE TERMS OF THE INTERGOVERNMENTAL AGREEMENT SHALL BE AGREED TO UNANIMOUSLY BY THE ARIZONA BOARD OF REGENTS, THE STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION AND A COMMUNITY COLLEGE DISTRICT IN THIS STATE.

C. THE RESPONSIBILITIES DESIGNATED THROUGH INTERGOVERNMENTAL AGREEMENT PURSUANT TO SUBSECTION A OF THIS SECTION MUST BE LIMITED TO THE ADMINISTRATION OF THE DISTANCE EDUCATION RECIPROCITY AGREEMENT FOR PARTICIPATING POSTSECONDARY INSTITUTIONS THAT HAVE A PRINCIPAL PLACE OF BUSINESS IN THIS STATE.

D. FOR THE PURPOSES OF THIS SECTION, "POSTSECONDARY INSTITUTION" MEANS ANY ACCREDITED, DEGREE-GRANTING PUBLIC OR PRIVATE UNIVERSITY OR COLLEGE LOCATED IN THIS STATE, ANY ACCREDITED DEGREE-GRANTING COMMUNITY COLLEGE LOCATED IN THIS STATE AND ANY ACCREDITED DEGREE-GRANTING COLLEGE OR UNIVERSITY LOCATED ON AND OPERATED BY A FEDERALLY RECOGNIZED INDIAN TRIBE.

Sec. 4. Section 32-3003, Arizona Revised Statutes, is amended to read:

32-3003. Powers and duties

A. The board shall:

1. Annually select a chairman from among its members.

2. Meet at least four times a year.

3. Adopt rules which are necessary or proper for the administration of this chapter.

4. Administer and enforce this chapter and rules adopted pursuant to this chapter.

5. Establish minimum standards for private vocational program licensure requirements.

6. Adopt an official seal for attestation of licenses or other official papers and documents.

7. Consider and pass upon applications for private vocational program licenses and licenses to grant degrees.

8. Hear and pass upon complaints or charges.

9. Compel attendance of witnesses, administer oaths and take testimony concerning all matters coming within its jurisdiction.

10. Keep a record of its proceedings.

11. Keep a register which shows the date of each application for a private vocational program license, qualifications and place of business of the applicant and disposition of the application.

12. Keep a register which shows the date of each application for a license to grant degrees, qualifications and place of business of the applicant and disposition of the application.

13. Maintain a list of institutions licensed pursuant to this chapter which is open to public inspection at all reasonable times. The board shall give a copy of the list to any person who requests it.

14. Engage in a full exchange of information with other regulatory boards, governmental agencies, accrediting agencies and the United States department of education.

15. Do other things necessary to carry out the purposes of this chapter.

B. The board may:

1. Subject to title 41, chapter 4, article 4, employ personnel it deems necessary to carry out the purposes of this chapter and designate their duties. These duties may include considering and passing on license applications, considering and passing on complaints or charges, making investigations, compelling attendance of witnesses and issuing official papers and documents.

2. Make investigations, hold hearings and make decisions to enforce this chapter.

3. Issue subpoenas to compel the attendance of witnesses and the production of documents and administer oaths, take testimony, hear proof and receive exhibits in evidence.

4. Accept and spend federal monies and private grants, gifts, contributions and devises to assist in carrying out the purposes of this chapter. These monies do not revert to the state general fund at the end of a fiscal year.

5. ENTER INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO SECTION 15-1747 TO MANAGE PRIVATE POSTSECONDARY INSTITUTIONS IN THIS STATE SUBJECT TO THE TERMS OF THE RECIPROCITY AGREEMENT.

Sec. 5. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR APRIL 23, 2014.

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

Passed the House March 6, 2014

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting with Emergency

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 21, 2014

by the following vote: 23 Ayes,

0 Nays, 7 Not Voting with Emergency

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 21, 2014,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

With Emergency

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

22 day of April, 2014,

at 8:30 o'clock A M.

Mikhaila Howard

Secretary to the Governor

Approved this 23rd day of

April, 2014,

at 10:34 o'clock A M.

Jan 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.

Ken Bennett

Secretary of State

H.B. 2577