Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 238

HOUSE BILL 2271

AN ACT

AMENDING SECTIONS 15-1626, 15-1682 AND 15-1683, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 13, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1696; RELATING TO THE ARIZONA BOARD OF REGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. 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 Any delegation of authority may be rescinded by the board at any time in whole or in part.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. 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.
5. COMMERCIAL PAPER ISSUED PURSUANT TO SECTION 15-1696.

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.

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. 2. Section 15-1682, Arizona Revised Statutes, is amended to read:

15-1682. Powers

The board shall have power for each institution, as defined in this article, to:

1. Acquire, if authorized by the legislature, any project or projects, or any combination thereof, and to secure indirect or ~~third party~~ THIRD-PARTY financing for or own, operate and maintain the same and establish, own, operate and maintain a system of building facilities.

2. Acquire by purchase, contract, lease-purchase, lease or gift, and hold or dispose of, real or personal property or rights or interest therein.

3. Accept grants, subsidies or loans of monies from a federal agency, or others, ~~upon~~ ON such terms and conditions as may be imposed, and to pledge the proceeds of grants, subsidies or loans of monies received or to be received from the United States of America or any agency or instrumentality thereof, or others, pursuant to agreements entered into between ~~such~~ THE board and the United States of America, or any agency or instrumentality thereof, or others.

4. Borrow monies and issue bonds to acquire any one project, or more than one, or any combination thereof, if authorized by the legislature, and to refund bonds heretofore or hereafter issued to acquire any project or projects, or to refund any such refunding bonds, or for any one, or more than one, or all of such purposes, or any combination thereof, and to provide for the security and payment of such bonds and for the rights of the holders thereof.

5. Make contracts and leases and execute all instruments and perform all acts and do all things necessary or convenient to carry out the powers granted in this article.

6. Retain in its treasury:

(a) All monies received from the sale of all bonds issued under this article.

(b) All fees, tuitions, rentals and other charges from students, faculty, staff members and others using or being served by, or having the right to use or the right to be served by, or to operate, any project.

(c) All fees for student activities and student services and all other fees, tuitions and charges collected from students matriculated, registered or otherwise enrolled at and attending each institution pledged under the terms of any resolution authorizing bonds pursuant to this article.

(d) All rentals from any facility or building leased to the United States of America.

7. OBTAIN LINES OF CREDIT FOR CASH MANAGEMENT OR LIQUIDITY PURPOSES AND TO ISSUE COMMERCIAL PAPER AS PROVIDED IN SECTION 15-1696.

Sec. 3. Section 15-1683, Arizona Revised Statutes, is amended to read:

15-1683. Issuance of bonds

A. The board shall have power, and is hereby authorized from time to time, to issue bonds:

1. To acquire any one project, or more than one, or any combination thereof, for such institution, if both of the following conditions are met:

(a) As of the date of issuance of bonds or certificates of participation for any institution, projected debt service on bonds and certificates of participation then outstanding and proposed to be issued for such institution, as shown in the most recent capital improvement plan reported to the board, may not exceed, in any fiscal year shown in such capital improvement plan, more than eight per cent of such institution's total projected expenditures and mandatory transfers. The calculation of compliance with this condition shall be as set forth in and approved by the board in its adopted capital improvement plan for such institution. PROJECTED DEBT SERVICE IN THE CAPITAL IMPROVEMENT PLAN FOR ANY PROJECT FINANCED WITH COMMERCIAL PAPER SHALL BE CALCULATED BASED ON THE PROJECTED DEBT SERVICE ON THE PERMANENT FINANCING FOR THE PROJECT OR, FOR PROJECTS THAT ARE NOT EXPECTED TO BE REPLACED WITH PERMANENT FINANCING, THE PROJECTED DEBT SERVICE SHALL BE CALCULATED BASED ON AN ASSUMED FINANCING TERM OF THIRTY YEARS.

(b) The project to be acquired with the proceeds of the bonds is reviewed by the joint committee on capital review.

2. To refund bonds heretofore and hereafter issued to acquire any project or projects for such institution as hereinafter provided for.

3. To refund any such refunding bonds.

4. For any one, or more than one, or all of such purposes, or any combination thereof.

B. All bonds shall be authorized by resolution of the board and may be issued in one or more series, may bear such date or dates, may be in such denomination or denominations, may mature at such time or times not exceeding the earlier of forty years from the respective dates thereof or the useful life of the capital improvements, may mature in such amount or amounts, may bear interest at such rate or rates as shall be determined by the board,

payable at such time or times, may be in such form, either coupon or registered as to principal only or as to both principal and interest, may carry such registration privileges, including the conversion of a fully registered bond to a coupon bond or bonds and the conversion of a coupon bond to a fully registered bond, may be executed in such manner, may be made payable in such medium of payment, at such place or places within or without the state, and may be subject to such terms of redemption prior to their expressed maturity, with or without premium, as such resolution or other resolutions may provide. All bonds issued under this article shall be sold as the board shall determine. Such resolution may provide that one of the officers of the board shall sign such bonds manually and that the other signatures may be printed, lithographed, engraved or otherwise reproduced thereon. The coupon bonds shall be fully negotiable within the meaning of the uniform commercial code, title 47.

Sec. 4. Title 15, chapter 13, article 5, Arizona Revised Statutes, is amended by adding section 15-1696, to read:

15-1696. Commercial paper; requirements

A. THE BOARD HAS THE POWER AND IS HEREBY AUTHORIZED TO ISSUE COMMERCIAL PAPER FROM TIME TO TIME TO PROVIDE SHORT-TERM FINANCING FOR ANY CAPITAL PROJECT OR COSTS AND EXPENSES RELATED TO A CAPITAL PROJECT OF ONE OR MORE INSTITUTIONS OR TO PROVIDE FOR PAYMENT OF COMMERCIAL PAPER OR OTHER OBLIGATIONS PREVIOUSLY ISSUED. THE COMMERCIAL PAPER MAY BE ISSUED AS NOTES OR OTHER OBLIGATIONS, TO BE ISSUED AS A SINGLE INSTRUMENT OR AS A SUCCESSION OF INSTRUMENTS, EACH OF WHICH MATURES IN NOT MORE THAN TWO HUNDRED SEVENTY DAYS, TO PROVIDE FOR PAYMENT OF INSTRUMENTS PREVIOUSLY ISSUED.

B. THE FOLLOWING APPLY TO COMMERCIAL PAPER ISSUED UNDER THIS SECTION:

1. COMMERCIAL PAPER MAY BE ISSUED PURSUANT TO A RESOLUTION OF THE BOARD OR PURSUANT TO BOARD-AUTHORIZED AGREEMENTS.

2. THE BOARD'S REPAYMENT OBLIGATIONS ON COMMERCIAL PAPER MAY BE PAYABLE FROM AND SECURED BY A PLEDGE OF THE SAME SOURCES AND COVENANTS ALLOWED BY SECTION 15-1685, OR OTHER SOURCES THAT MAY BE PLEDGED WITHOUT VIOLATING ARTICLE IX, SECTION 5, CONSTITUTION OF ARIZONA, OR MAY BE PAYABLE FROM AMOUNTS BUDGETED AND ALLOCATED BY THE BOARD FOR THAT PURPOSE FOR THE CURRENT FISCAL PERIOD.

3. ANY COMMERCIAL PAPER PAYABLE FROM AMOUNTS BUDGETED AND ALLOCATED BY THE BOARD FOR THAT PURPOSE FOR THE CURRENT FISCAL PERIOD SHALL PROVIDE THAT BOTH:

(a) THE OBLIGATION OF THE BOARD TO MAKE ANY PAYMENTS FOR OR RELATED TO THE COMMERCIAL PAPER IS A CURRENT EXPENSE OF THE BOARD AND IS NOT A GENERAL OBLIGATION INDEBTEDNESS OF THE BOARD OR THIS STATE.

(b) IF THE BOARD FAILS TO BUDGET AND ALLOCATE MONIES FOR ANY PERIODIC PAYMENT OR RENEWAL TERM FOR ANY FUTURE FISCAL PERIOD, THE BOARD'S OBLIGATION TO MAKE PAYMENTS FOR OR RELATED TO THE COMMERCIAL PAPER CEASES AT THE END OF THE CURRENT FISCAL PERIOD, AND THE BOARD AND THIS STATE ARE RELIEVED OF ANY SUBSEQUENT PAYMENT OBLIGATIONS.

4. THE BOARD SHALL ESTABLISH BY RESOLUTION OR IN THE AUTHORIZING AGREEMENT A FINAL MATURITY DATE OR FINAL RENEWAL PERIOD FOR COMMERCIAL PAPER AND A MAXIMUM RATE OF INTEREST FOR COMMERCIAL PAPER ISSUED PURSUANT TO THIS SECTION. THE INDIVIDUAL INSTRUMENTS REPRESENTING THE COMMERCIAL PAPER MAY BEAR INTEREST AT RATES NOT EXCEEDING THE MAXIMUM RATE ESTABLISHED BY THE BOARD, MAY MATURE AND BE RETIRED, INCLUDING WITH THE PROCEEDS OF SUBSEQUENT INSTRUMENTS, OVER PERIODS ENDING NOT LATER THAN THE FINAL MATURITY DATE OR RENEWAL PERIOD ESTABLISHED BY THE BOARD AND MAY BE RETIRED WITH THE PROCEEDS OF BONDS OR OTHER OBLIGATIONS OF THE BOARD.

5. COMMERCIAL PAPER MAY BE SOLD THROUGH AN AGENT OR DEALER THAT IS RECOGNIZED IN MUNICIPAL FINANCE. COMMERCIAL PAPER SHALL MATURE AT INTERVALS, BEAR INTEREST, BE IN THE FORM, BE EXECUTED AND HAVE SUCH OTHER TERMS AND CONDITIONS AS PROVIDED BY THE BOARD.

6. IN CONNECTION WITH THE COMMERCIAL PAPER REQUIREMENTS OF THIS SECTION, THE BOARD MAY:

(a) CONTRACT WITH A BANK OR OTHER FINANCIAL INSTITUTION, INSURANCE COMPANY OR INDEMNITY COMPANY TO PROVIDE ADDITIONAL SECURITY FOR THE COMMERCIAL PAPER IN THE FORM OF A LETTER OF CREDIT, A LINE OF CREDIT, AN INSURANCE POLICY OR OTHER SECURITY.

(b) PAY THE COSTS OF THE ADDITIONAL SECURITY FROM AMOUNTS PROVIDED BY THE COMMERCIAL PAPER OR FROM OTHER LAWFULLY AVAILABLE SOURCES AND MAY ENTER INTO REIMBURSEMENT OBLIGATIONS IN CONNECTION WITH THE COST OF THAT ADDITIONAL SECURITY.

7. ANY REIMBURSEMENT OBLIGATION ENTERED INTO WITH A BANK OR OTHER FINANCIAL INSTITUTION, INSURANCE COMPANY OR INDEMNITY COMPANY MAY NOT PROVIDE FOR THE PAYMENT OF INTEREST IN EXCESS OF THE MAXIMUM INTEREST RATE ESTABLISHED BY THE BOARD FOR THE COMMERCIAL PAPER OR A DIFFERENT MAXIMUM INTEREST RATE ESTABLISHED BY THE BOARD FOR THE REIMBURSEMENT OBLIGATION. THE REIMBURSEMENT OBLIGATION MAY BE PAYABLE FROM THE SAME SOURCE AS THE COMMERCIAL PAPER OR FROM OTHER LAWFULLY AVAILABLE MONIES OF THE BOARD BUT MAY NOT CONSTITUTE A GENERAL OBLIGATION OF THE BOARD OR THIS STATE.

8. ANY COMMERCIAL PAPER ISSUED BY THE BOARD PURSUANT TO THIS SECTION SHALL BE REPAID WITHIN TWO HUNDRED SEVENTY DAYS, AND AT NO TIME SHALL THE OUTSTANDING PRINCIPAL AMOUNT OF COMMERCIAL PAPER BE MORE THAN TWENTY-FIVE PERCENT OF A UNIVERSITY'S TOTAL DEBT CAPACITY AS REPORTED TO THE BOARD PURSUANT TO SECTION 15-1683, SUBSECTION A, PARAGRAPH 1.

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.

Passed the House March 1, 2016

by the following vote: 58 Ayes,

1 Nays, 1 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate March 28, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

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

May 5, 2016,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5th day of May, 2016,

at 1:21 o'clock P. M.

Secretary to the Governor

Approved this 12th day of

May, 2016,

at 9:52 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 13 day of May, 2016

at 8:33 o'clock A M.

Michele Reagan
Secretary of State

H.B. 2271