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REFERENCE TITLE: **community colleges; policy clean-up**

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

HB 2352

Introduced by
Representatives Gray L, Chase: Cannell, Graf, Hart, Huffman, Jayne, Lopez
L, Loreda, Pierce, Thompson, Senators Aguirre, Verschoor

AN ACT

AMENDING SECTION 15-1444, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 12, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1446; AMENDING SECTIONS 15-1464, 15-1466, 15-1472 AND 15-1484, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY COLLEGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-1444, Arizona Revised Statutes, is amended to
3 read:
4 15-1444. Powers and duties
5 A. Except as otherwise provided, the district board shall:
6 1. Maintain each community college for a period of not less than eight
7 months in each year and, if the funds of the district are sufficient,
8 maintain each community college for a longer period.
9 2. Enforce the courses of study prescribed by the district board.
10 3. Visit each community college and examine carefully into its
11 management, conditions and needs.
12 ~~4. Exclude from each community college all books, publications or~~
13 ~~papers of a sectarian, partisan or denominational character intended for use~~
14 ~~as textbooks.~~
15 ~~5.~~ 4. Appoint and employ a chancellor or chancellors,
16 vice-chancellors, a president or presidents, vice-presidents, deans,
17 professors, instructors, lecturers, fellows and such other officers and
18 employees it deems necessary. The district board may enter into employment
19 contracts with chancellors, vice-chancellors and presidents for a duration of
20 more than one year but not more than five years.
21 ~~6.~~ 5. Determine the salaries of persons it appoints and employs.
22 ~~7.~~ 6. Remove any officer or employee if in its judgment the interests
23 of education in this state require the removal.
24 ~~8.~~ 7. Award degrees, certificates and diplomas upon the completion of
25 courses and curriculum as it deems appropriate.
26 ~~9.~~ 8. Appoint, if it deems necessary, police officers who shall have
27 the authority and power of peace officers. The police officers who have
28 received a certificate from the Arizona peace officer standards and training
29 board are eligible for membership in and benefits under either title 38,
30 chapter 5, article 2 or the public safety personnel retirement system under
31 title 38, chapter 5, article 4.
32 ~~10.~~ 9. Receive, hold, make and take leases of and sell personal
33 property for the benefit of the community colleges under its jurisdiction.
34 ~~11.~~ 10. Obtain insurance against loss, to the extent it is determined
35 necessary on community college buildings of the district, whether financed in
36 whole or in part by state monies. The local district shall have an insurable
37 interest in the buildings.
38 B. The district board may:
39 1. Administer trusts declared or created for the district and receive
40 by gift or devise and hold in trust or otherwise property wheresoever
41 located, and if not otherwise provided, dispose of the property for the
42 benefit of the district.
43 2. Lease real property, as lessor or as lessee. If a district is the
44 lessee, the lease may contain an option to purchase the property. The
45 district board may adopt policies as are deemed necessary and may delegate in

1 writing to the chancellor or president of the district, or their designees,
2 all or any part of its authority to lease property under this paragraph. A
3 district governing board shall not delegate the authority to execute a lease
4 that exceeds one hundred thousand dollars per year. Any delegation by the
5 district board pursuant to this paragraph may be rescinded in whole or in
6 part at any time by the district board.

7 3. Sue and be sued.

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

13 5. Construct, remodel and repair buildings.

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

18 C. From and after December 31, 1988, in a district whose boundaries
19 encompass a vehicle emissions control area as defined in section 49-541 the
20 district board shall require all out of county and out of state students to
21 sign an affidavit at the time of course registration that the student's
22 vehicle meets the requirements of section 49-542. From and after December
23 31, 1988, the district board on property under its jurisdiction within a
24 vehicle emissions control area shall prohibit the parking of those vehicles
25 which fail to comply with section 49-542.

26 D. A community college district and a joint technological education
27 district governing board may enter into agreements for the provision of
28 administrative, operational and educational services and facilities.

29 Sec. 2. Title 15, chapter 12, article 3, Arizona Revised Statutes, is
30 amended by adding section 15-1446, to read:

31 15-1446. Lease-purchase agreements

32 A. A DISTRICT BOARD MAY ENTER INTO LEASE OR LEASE-PURCHASE AGREEMENTS
33 FOR REAL PROPERTY, INCLUDING BUILDINGS AND IMPROVEMENTS TO THE PROPERTY. A
34 DISTRICT BOARD MAY PLEDGE TUITIONS, FEES, RENTALS AND OTHER CHARGES TO ANY
35 PAYMENTS DUE UNDER LEASE-PURCHASE AGREEMENTS.

36 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, PERIODIC PAYMENTS AND
37 ANY OPTION PAYMENTS FOR ACQUISITION OF REAL PROPERTY BY LEASE-PURCHASE ARE
38 RESTRICTED TO PAYMENT FROM CAPITAL OUTLAY MONIES.

39 C. DISTRICTS THAT ACQUIRE REAL PROPERTY BY LEASE-PURCHASE ARE NOT
40 ENTITLED TO RECEIVE MONIES PURSUANT TO SECTION 15-1463 PERTAINING TO THE
41 SPECIFIC REAL PROPERTY ACQUIRED BY LEASE-PURCHASE.

42 D. NOTWITHSTANDING ANY OTHER LAW, PAYMENTS ON LEASE OR LEASE-PURCHASE
43 AGREEMENTS ENTERED INTO PURSUANT TO SUBSECTION A OF THIS SECTION OR SECTION
44 15-1444, SUBSECTION A, PARAGRAPH 9 ARE OBLIGATIONS OF THE DISTRICT WITHIN THE

1 MEANING OF THE CONSTITUTIONAL LIMIT AGAINST INDEBTEDNESS SET OUT IN ARTICLE
2 IX, SECTION 8, CONSTITUTION OF ARIZONA.

3 Sec. 3. Section 15-1464, Arizona Revised Statutes, is amended to read:

4 15-1464. State aid per capita distribution for capital outlay;
5 capital outlay fund; appropriation

6 A. In addition to the appropriation prescribed in section 15-1463,
7 ~~subsection A~~, this state shall pay to each community college district state
8 aid for capital outlay in the following manner:

9 1. For fiscal year 1992-1993 for a community college district which
10 had less than five thousand actual full-time equivalent students according to
11 the most recent fiscal year actual full-time equivalent student count, the
12 amount determined by multiplying the number of actual full-time equivalent
13 students according to the most recent fiscal year actual full-time equivalent
14 student count by two hundred seven dollars.

15 2. For fiscal year 1992-1993 for a community college district which
16 had five thousand or more actual full-time equivalent students according to
17 the most recent fiscal year actual full-time equivalent student count, the
18 amount determined by multiplying the number of actual full-time equivalent
19 students according to the most recent fiscal year actual full-time equivalent
20 student count by one hundred fifty-eight dollars.

21 3. Beginning with fiscal year 1993-1994 the legislature shall adjust
22 by the growth rate for common and high school districts ~~as provided by law~~
23 PRESCRIBED IN SECTION 15-901.01, subject to appropriation, the amount of
24 state aid to community college districts as provided in paragraphs 1 and 2.

25 B. The basis for computing full-time equivalent students for the
26 capital outlay per capita distribution shall be on the same basis as the
27 computation prescribed in section 15-1466.01.

28 C. In addition to the formula to determine the appropriations
29 prescribed in section 15-1463, ~~subsection A~~ and subsection A of this section,
30 this state may pay additional amounts for capital outlay to a community
31 college district based on requests from the district.

32 D. Appropriations for capital outlay made pursuant to subsections A
33 and C of this section and section 15-1463 shall be made to an account
34 designated as the capital outlay fund.

35 E. At the beginning of each fiscal year, the district board shall
36 present to the department of administration a claim for the annual amount
37 appropriated by the legislature and assigned to the district for capital
38 outlay purposes. The department of administration shall draw a warrant in
39 payment of the claim and shall transmit the warrant to the state treasurer
40 who shall disburse the funds to the district for capital outlay purposes, to
41 be expended as provided by law. If no community college exists, the
42 department shall establish a fund for new future community college districts
43 to be disbursed as needed.

1 F. Notwithstanding subsection E of this section, a community college
2 district may request the state treasurer to disburse the monies to the local
3 government investment pool for deposit into the district's account as
4 established in section 35-326.

5 G. Each district has the option of using up to twenty per cent of its
6 total capital outlay aid appropriation for operating aid purposes or taking
7 this same amount out of the district's total operating state aid
8 appropriation and using it for capital outlay purposes.

9 Sec. 4. Section 15-1466, Arizona Revised Statutes, is amended to read:
10 15-1466. State aid; eligibility; limitations

11 A. Subject to legislative appropriation, the legislature shall
12 determine and appropriate the amount of state aid each fiscal year ~~for any TO~~
13 ~~EACH~~ district possessing the qualifications as prescribed in this chapter.

14 B. The state shall determine the amount of state aid, as prescribed in
15 subsection F of this section, appropriated to each district for the fiscal
16 year prior to the fiscal year for which the state aid is being calculated.

17 C. The state shall adjust the amount of state aid appropriated to each
18 district as determined in subsection B of this section by the growth rate
19 ~~referenced by PRESCRIBED IN~~ section ~~15-901, subsection B, paragraph 2~~
20 ~~15-901.01~~. This amount shall be appropriated to the district except as
21 provided in subsection D of this section.

22 D. In addition to the state aid appropriated in subsection C of this
23 section, each district qualified under this chapter shall have its state aid
24 adjusted in an amount that reflects the growth in the full-time equivalent
25 student count of the district calculated as follows:

26 1. Calculate the growth in the actual, audited full-time equivalent
27 student count between the second and third most recent fiscal years prior to
28 the fiscal year for which the state aid is being calculated for each
29 district.

30 2. Calculate the average appropriation per full-time equivalent
31 student for all districts by dividing the amount determined in subsection B
32 of this section by the actual, audited full-time equivalent student count for
33 all districts in the most recent fiscal year.

34 3. Multiply the amount calculated in paragraph 1 of this subsection by
35 the average appropriation calculated in paragraph 2 of this subsection. This
36 amount shall be appropriated to the district for growth.

37 E. State aid appropriated to each district shall be allocated and paid
38 in accordance with subsection C of this section before any funding is
39 allocated and paid in accordance with subsection D of this section.

40 F. The total amount appropriated to each district each fiscal year in
41 accordance with subsections C and D of this section shall serve as the amount
42 of state aid to be adjusted in the next fiscal year.

43 G. To be eligible for state aid, a district shall:

44 1. Be equipped with suitable buildings, equipment and campus.

1 2. Have three hundred twenty full-time equivalent students attending
2 in the district.

3 3. Have complied with all of the requirements of the district board
4 including budgets and curriculum.

5 H. Notwithstanding subsection E of this section, the legislature may
6 allocate funding for growth in the full-time equivalent student count prior
7 to or in combination with funding of the growth rate.

8 I. The total amount of state monies that may be spent in any fiscal
9 year by a community college district for operating state aid shall not exceed
10 the amount appropriated or authorized by section 35-173 for that purpose.
11 Notwithstanding section 15-1444, this section shall not be construed to
12 impose a duty on an officer, agent or employee of this state to discharge a
13 responsibility or to create any right in a person or group if the discharge
14 or right would require an expenditure of state monies in excess of the
15 expenditure authorized by legislative appropriation for that specific
16 purpose, including any duties prescribed in an employment contract entered
17 into pursuant to section 15-1444, subsection A, paragraph ~~5~~ 4.

18 J. In addition to the formula to determine the state aid
19 appropriations prescribed in this section, the state may pay additional
20 amounts for state aid to a community college district based on requests
21 included in the district's budget request.

22 Sec. 5. Section 15-1472, Arizona Revised Statutes, is amended to read:
23 15-1472. Community college district workforce development
24 accounts; reports

25 A. Each community college district shall establish a separate
26 workforce development account to receive only tax revenues authorized
27 pursuant to section 42-5029, subsection E, paragraph 3. Each community
28 college district board shall approve the expenditure of these monies in
29 accordance with section 15-1461 and consistent with ~~the provisions of~~
30 subsection B of this section.

31 B. Monies received pursuant to subsection A of this section shall be
32 expended for workforce development and job training purposes. These
33 expenditures may include:

34 1. Partnerships with businesses and educational institutions.

35 2. Additional faculty for improved and expanded classroom instruction
36 and course offerings.

37 3. Technology, equipment and technology infrastructure for advanced
38 teaching and learning in classrooms or laboratories.

39 4. Student services such as assessment, advisement and counseling for
40 new and expanded job opportunities.

41 5. The purchase, lease or lease-purchase of real property, for new
42 construction, remodeling or repair of buildings or facilities on real
43 property.

1 C. The state treasurer shall transfer monies under this section into
2 each district's workforce development account by the fifteenth day of each
3 month. The state treasurer shall also allocate and distribute any pooled
4 interest earnings earned from revenues authorized in section 42-5029,
5 subsection E, paragraph 3 to each district in accordance with the method
6 prescribed in subsection D, paragraph 2 of this section.

7 D. Revenues authorized for community college districts in section
8 42-5029, subsection E, paragraph 3 shall be distributed by the state in the
9 following manner:

10 1. For thirteen fiscal years beginning in fiscal year 2001-2002 the
11 state treasurer shall allocate one million dollars per fiscal year for the
12 purpose of bringing this state into compliance with the matching capital
13 requirements prescribed in section 15-1463. The state treasurer shall
14 distribute the monies authorized in this subsection to each district in the
15 order in which each campus qualified for funding pursuant to section 15-1463.

16 2. After the monies have been paid each year to the eligible district
17 pursuant to paragraph 1 of this subsection, the state treasurer shall
18 distribute monies from the workforce development fund to each community
19 college district in the following manner:

20 (a) Each district shall receive the sum of two hundred thousand
21 dollars.

22 (b) After each district has received the payments prescribed in
23 subdivision (a) ~~of this paragraph~~, the remainder of monies in the fund shall
24 be distributed to each district according to each district's full-time
25 equivalent student enrollment percentage of the total state wide audited
26 full-time equivalent student enrollment in the preceding fiscal year
27 prescribed in section 15-1466.01. The percentage distribution under this
28 subdivision shall be adjusted annually on October 1 of each year.

29 E. Revenues received by community college districts shall not be used
30 by the legislature to supplant or reduce any state aid authorized in this
31 chapter or supplant any proceeds from the sale of bonds authorized in this
32 article and article 5 of this chapter.

33 F. Monies received under this section shall not be considered to be
34 local revenues for purposes of article IX, section 21, Constitution of
35 Arizona.

36 G. Each community college district shall submit a workforce
37 development plan AND EXPENDITURES by April 1 of each year to THE STATE BOARD
38 OF DIRECTORS FOR COMMUNITY COLLEGES, the department of commerce, THE JOINT
39 LEGISLATIVE BUDGET COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING
40 AND BUDGETING. The plan shall outline the purpose and goals for which
41 workforce development monies are to be expended by the district.

42 ~~H. Each community college district shall annually submit a report of~~
43 ~~its workforce development plan activities and expenditures authorized by this~~
44 ~~section for the previous year to the state board of directors for community~~
45 ~~colleges by December 1. The state board may offer recommendations regarding~~

~~1 a district's workforce development plan for future years and shall forward
2 the district reports to the joint legislative budget committee for review.~~

3 ~~I.~~ H. Each community college district shall annually submit a report
4 of the expenditures authorized in this section to the governor, president of
5 the senate, speaker of the house of representatives and department of
6 commerce by each December 1 following the end of the fiscal year for which
7 the expenditures have been made. The report shall include the purpose and
8 goals for which the workforce development monies were expended by each
9 district together with a general accounting of the expenditures authorized in
10 subsection B of this section. A copy of the final report shall also be
11 provided to the secretary of state and the director of the Arizona state
12 library, archives and public records.

13 Sec. 6. Section 15-1484, Arizona Revised Statutes, is amended to read:
14 15-1484. Powers to secure bonds

15 A. In connection with the issuance of the bonds authorized by section
16 15-1483, or in order to secure the payment of such bonds and interest
17 thereon, the board shall have power by resolution to:

18 1. Fix and maintain tuitions, fees, rentals and other charges from
19 students, faculty members and others using or being served by, or having the
20 right to use or the right to be served by, any project.

21 2. Provide that bonds issued under this article may be secured by a
22 first, exclusive and closed lien on all or any certain part of the income and
23 revenue derived from, and shall be payable from tuitions, fees, rentals and
24 other charges from students, faculty members and others using or being served
25 by, or having the right to use or the right to be served by, any project.

26 3. Pledge and assign to, or in trust for the benefit of, the holder or
27 holders of the bonds issued hereunder an amount of the income and revenue
28 derived from tuitions, fees, rentals and other charges from students, faculty
29 members and others using or being served by, or having the right to use or
30 the right to be served by, any project.

31 4. Covenant with or for the benefit of the holder or holders of bonds
32 issued under this article to acquire any project, that as long as any such
33 bonds remain outstanding and unpaid the board will fix, maintain and collect
34 in such installments as may be agreed upon an amount of the tuitions, fees,
35 rentals and other charges from students, faculty members and others using or
36 being served by, or having the right to use or the right to be served by, any
37 project, which shall be sufficient to pay when due the bonds issued hereunder
38 to acquire such project, and interest thereon, and to create and maintain
39 reasonable reserves therefor and to pay the costs of operation and
40 maintenance of such project including, but not limited to, reserves for
41 extraordinary repairs, insurance and maintenance, which costs of operation
42 and maintenance shall be determined by the board in its absolute discretion.

43 5. Make and enforce and agree to make and enforce parietal rules that
44 shall insure the use of any project by all students in attendance at the
45 institution to the maximum extent to which such project is capable of serving

1 such students, or if any part of the project is designed for occupancy as
2 living quarters for the faculty members, by as many faculty members as may be
3 served thereby.

4 6. Covenant that as long as any of the bonds issued under this article
5 remain outstanding and unpaid it will not, except upon such terms and
6 conditions as may be determined:

7 (a) Voluntarily create or cause to be created any debt, lien, pledge,
8 assignment, encumbrance or other charge having priority to or being on a
9 parity with the lien of the bonds issued under this article upon any of the
10 income and revenues derived from tuitions, fees, rentals and other charges
11 from students, faculty members and others using or being served by, or having
12 the right to use or the right to be served by, any project.

13 (b) Convey or otherwise alienate the project to acquire which such
14 bonds shall have been issued or the real estate upon which such project shall
15 be located, except at a price sufficient to pay all the bonds then
16 outstanding issued under this article to acquire such project and interest
17 accrued thereon, and then only in accordance with any agreements with the
18 holder or holders of such bonds.

19 (c) Mortgage or otherwise voluntarily create or cause to be created
20 any encumbrance on the project to acquire which such bonds shall have been
21 issued or the real estate upon which it shall be located.

22 7. Covenant as to the procedure by which the terms of any contract
23 with a holder or holders of such bonds may be amended or abrogated, the
24 amount or percentage of bonds the holder or holders of which must consent to
25 an amendment or abrogation and the manner in which such consent may be given.

26 8. Vest in a trustee or trustees the right to receive all or any part
27 of the income and revenue pledged and assigned to, or for the benefit of, the
28 holder or holders of bonds issued hereunder, and to hold, apply and dispose
29 of the same and the right to enforce any covenant made to secure or pay or in
30 relation to the bonds; execute and deliver a trust agreement or trust
31 agreements which may set forth the powers and duties and the remedies
32 available to such trustee or trustees and limiting the liabilities thereof
33 and describing what occurrences shall constitute events of default and
34 prescribing the terms and conditions upon which such trustee or trustees or
35 the holder or holders of bonds of any specified amount or percentage of such
36 bonds may exercise such rights and enforce any and all such covenants and
37 resort to such remedies as may be appropriate.

38 9. Vest in a trustee or trustees or the holder or holders of any
39 specified amount or percentage of bonds the right to apply to any court of
40 competent jurisdiction for, and have granted, the appointment of a receiver
41 or receivers of the income and revenue pledged and assigned to or for the
42 benefit of the holder or holders of such bonds, which receiver or receivers
43 may have and be granted such powers and duties as such court may order or
44 decree for the protection of the bondholders.

1 10. Make covenants with any federal agency, private agency, corporation
2 or individual to perform any and all acts and to do any and all such things
3 as may be necessary or convenient or desirable in order to secure such bonds
4 or as may in the judgment of the board tend to make the bonds more
5 marketable, notwithstanding that such acts or things may not be enumerated
6 herein, and to lease any project for the best interests of the institution,
7 and to perform all acts and to do all things not inconsistent with the
8 constitution of this state as may be necessary or convenient or desirable for
9 the issuance of such bonds and for their security.

10 11. Enter into any and all contracts and agreements necessary to
11 accomplish the acquisition of the project or projects including agreements
12 for construction, engineering and architectural services and agreements
13 covering disposition and application of the proceeds received from the sale
14 of the bonds.

15 B. No bond shall be issued for any institution which causes the total
16 aggregate face amount of all bonds issued for classrooms to exceed the
17 greater of ~~twenty-five~~ FIFTY per cent of all bonds then issued for such
18 institution or ~~one~~ TWO million dollars. ~~For purposes of this subsection,~~
19 ~~classroom does not include any building which would have been included within~~
20 ~~the definition of project prior to September 30, 1988.~~