

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1040

AN ACT

AMENDING SECTION 15-203, ARIZONA REVISED STATUTES; AMENDING SECTION 15-536, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 98, SECTION 5; AMENDING SECTION 15-536, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 2 OF THIS ACT; REPEALING SECTION 15-536, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 98, SECTION 6; REPEALING SECTION 15-536, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 98, SECTION 7; AMENDING SECTION 15-538.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 98, SECTION 8; AMENDING SECTION 15-538.01, ARIZONA REVISED STATUTES, AS AMENDED BY SECTION 6 OF THIS ACT; REPEALING SECTION 15-538.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 98, SECTION 9; REPEALING SECTION 15-538.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 98, SECTION 10; RELATING TO EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 15-203. Powers and duties

5 A. The state board of education shall:

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

9 2. Keep a record of its proceedings.

10 3. Make rules for its own government.

11 4. Determine the policy and work undertaken by it.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 18. Include within its budget the cost of contracting for the purchase,
32 distribution and scoring of the examinations as provided in paragraphs 16 and
33 17 of this subsection.

34 19. Supervise and control the qualifications of professional
35 nonteaching school personnel and prescribe standards relating to
36 qualifications. The standards shall not require the business manager of a
37 school district to obtain certification from the state board of education.

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

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

43 22. Adopt a rule to promote braille literacy pursuant to section
44 15-214.

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

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

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

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

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

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

32 28. Adopt rules that provide for the presentation of an honorary high
33 school diploma to a person who has never obtained a high school diploma and
34 who meets both of the following requirements:

35 (a) Currently resides in this state.

36 (b) Provides documented evidence from the Arizona department of
37 veterans' services that the person enlisted in the armed forces of the United
38 States and served in World War I, World War II, the Korean conflict or the
39 Vietnam conflict.

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

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

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

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

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

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

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

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

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

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

39 32. To facilitate the transfer of military personnel and their
40 dependents to and from the public schools of this state, pursue, in
41 cooperation with the Arizona board of regents, reciprocity agreements with
42 other states concerning the transfer credits for military personnel and their
43 dependents. A reciprocity agreement entered into pursuant to this paragraph
44 shall:

1 (a) Address procedures for each of the following:

2 (i) The transfer of student records.

3 (ii) Awarding credit for completed course work.

4 (iii) Permitting a student to satisfy the graduation requirements
5 prescribed in section 15-701.01 through the successful performance on
6 comparable exit-level assessment instruments administered in another state.

7 (b) Include appropriate criteria developed by the state board of
8 education and the Arizona board of regents.

9 33. Adopt guidelines that school district governing boards shall use
10 in identifying pupils who are eligible for gifted programs and in providing
11 gifted education programs and services. The state board of education shall
12 adopt any other guidelines and rules that it deems necessary in order to
13 carry out the purposes of chapter 7, article 4.1 of this title.

14 34. For each of the alternative textbook formats of human-voiced audio,
15 large-print and braille, designate alternative media producers to adapt
16 existing standard print textbooks or to provide specialized textbooks, or
17 both, for pupils with disabilities in this state. Each alternative media
18 producer shall be capable of producing alternative textbooks in all relevant
19 subjects in at least one of the alternative textbook formats. The board
20 shall post the designated list of alternative media producers on its website.

21 35. Adopt a list of approved professional development training
22 providers for use by school districts as provided in section 15-107,
23 subsection J. The professional development training providers shall meet the
24 training curriculum requirements determined by the state board of education
25 in at least the areas of school finance, governance, employment, staffing,
26 inventory and human resources, internal controls and procurement.

27 36. Adopt rules to prohibit a person who violates the notification
28 requirements prescribed in section 15-183, subsection C, paragraph 7 or
29 section 15-550, subsection C from certification pursuant to this title until
30 the person is no longer charged or is acquitted of any offenses listed in
31 section 41-1758.03, subsection B. The board shall also adopt rules to
32 prohibit a person who violates the notification requirements, certification
33 surrender requirements or fingerprint clearance card surrender requirements
34 prescribed in section 15-183, subsection C, paragraph 8 or section 15-550,
35 subsection D from certification pursuant to this title for at least ten years
36 after the date of the violation.

37 37. Adopt rules for the alternative certification of teachers of
38 nontraditional foreign languages that allow for the passing of a nationally
39 accredited test to substitute for the education coursework required for
40 certification.

41 38. ON OR BEFORE DECEMBER 15, 2011, ADOPT AND MAINTAIN A MODEL
42 FRAMEWORK FOR A TEACHER AND PRINCIPAL EVALUATION INSTRUMENT THAT INCLUDES
43 QUANTITATIVE DATA ON STUDENT ACADEMIC PROGRESS THAT ACCOUNTS FOR BETWEEN
44 THIRTY-THREE PER CENT AND FIFTY PER CENT OF THE EVALUATION OUTCOMES AND BEST
45 PRACTICES FOR PROFESSIONAL DEVELOPMENT AND EVALUATOR TRAINING. SCHOOL

1 DISTRICTS AND CHARTER SCHOOLS SHALL USE AN INSTRUMENT THAT MEETS THE DATA
2 REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF EDUCATION TO ANNUALLY EVALUATE
3 INDIVIDUAL TEACHERS AND PRINCIPALS BEGINNING IN SCHOOL YEAR 2012-2013.

4 B. The state board of education may:

5 1. Contract.

6 2. Sue and be sued.

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

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

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

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

26 Sec. 2. Section 15-536, Arizona Revised Statutes, as amended by Laws
27 2010, chapter 98, section 5, is amended to read:

28 15-536. Offer of contract to certificated teacher who has not
29 been employed more than three consecutive school
30 years; acceptance; notice to teacher of intention not
31 to reemploy

32 A. Subject to ~~the provisions of~~ sections 15-539, 15-540, 15-541,
33 15-544 and 15-549, the governing board shall, ~~between March 15 and May 15~~
34 offer a teaching contract for the next ensuing school year to each
35 certificated teacher who has not been employed by the school district for
36 more than the major portion of three consecutive school years and who is
37 under a contract of employment with the school district for the current
38 school year, unless, ~~on or before April 15,~~ the governing board, a member of
39 the board acting on behalf of the board or the superintendent of the school
40 district gives notice to the teacher of the board's intention not to offer a
41 teaching contract, ~~OR~~ unless such teacher has been dismissed pursuant to
42 section 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the
43 contract for the ensuing year must be indicated within thirty days from the
44 date of the written contract or the offer is revoked. ~~Receipt under this~~
45 ~~subsection will be deemed to have occurred when the written contract is~~

1 ~~personally delivered, placed in the teacher's school provided mailbox,~~
2 ~~including electronic mail, or two days after being placed in a United States~~
3 ~~postal service mail box.~~ The teacher accepts the contract by signing the
4 contract and returning it to the governing board or by making a written
5 instrument which accepts the terms of the contract and delivering it to the
6 governing board. If the written instrument includes terms in addition to the
7 terms of the contract offered by the board, the teacher fails to accept the
8 contract.

9 B. Notice of the board's intention not to reemploy the teacher shall
10 be by delivering it personally to the teacher or by sending it by registered
11 or certified mail ~~bearing a postmark of on or before April 15, directed~~ to
12 the teacher at ~~his~~ THE TEACHER'S place of residence as recorded in the school
13 district records. The notice shall incorporate a statement of reasons for
14 not reemploying the teacher. If the reasons are charges of inadequacy of
15 classroom performance as defined by the governing board pursuant to section
16 15-539, subsection D, the board, ~~or its authorized representative, shall,~~ at
17 least ninety days prior to such notice, SHALL give the teacher written
18 preliminary notice of ~~his~~ inadequacy, specifying the nature of the inadequacy
19 with such particularity as to furnish the teacher an opportunity to correct
20 ~~his~~ THE inadequacies and overcome the grounds for such charge. The governing
21 board may delegate to employees of the governing board the general authority
22 to issue preliminary notices of inadequacy of classroom performance to
23 teachers pursuant to this subsection without the need for prior approval of
24 each notice by the governing board. In all cases in which an employee of the
25 governing board issues a preliminary notice of inadequacy of classroom
26 performance without prior approval by the governing board, the employee shall
27 report its issuance to the governing board within five school days. The
28 written notice of intention not to reemploy shall include a copy of any
29 evaluation pertinent to the charges made and filed with the board.

30 C. Nothing in this section shall be construed ~~so as~~ to provide a
31 certificated teacher who has not been employed by the school district for
32 more than the major portion of three consecutive school years and who has
33 received notice of the board's intention not to offer a teaching contract
34 with the right to a hearing pursuant to ~~the provisions of~~ section 15-539,
35 subsection G.

36 Sec. 3. Section 15-536, Arizona Revised Statutes, as amended by
37 section 2 of this act, is amended to read:

38 15-536. Offer of contract to certificated teacher who has not
39 been employed more than three consecutive school
40 years; acceptance; notice to teacher of intention not
41 to reemploy

42 A. Subject to sections 15-539, 15-540, 15-541, 15-544 and 15-549, the
43 governing board shall offer a teaching contract for the next ensuing school
44 year to each certificated teacher who has not been employed by the school
45 district for more than the major portion of three consecutive school years

1 and who is under a contract of employment with the school district for the
2 current school year, unless the governing board, a member of the board acting
3 on behalf of the board or the superintendent of the school district gives
4 notice to the teacher of the board's intention not to offer a teaching
5 contract or unless such teacher has been dismissed pursuant to section
6 15-538, 15-539, 15-541 or 15-544. The teacher's acceptance of the contract
7 for the ensuing year must be indicated within ~~thirty~~ FIFTEEN BUSINESS days
8 from the date of the TEACHER'S RECEIPT OF THE written contract or the offer
9 is revoked. RECEIPT UNDER THIS SUBSECTION WILL BE DEEMED TO HAVE OCCURRED
10 WHEN THE WRITTEN CONTRACT IS PERSONALLY DELIVERED, PLACED IN THE TEACHER'S
11 SCHOOL PROVIDED MAILBOX, INCLUDING ELECTRONIC MAIL, OR TWO DAYS AFTER BEING
12 PLACED IN A UNITED STATES POSTAL SERVICE MAIL BOX. The teacher accepts the
13 contract by signing the contract and returning it to the governing board or
14 by making a written instrument which accepts the terms of the contract and
15 delivering it to the governing board. If the written instrument includes
16 terms in addition to the terms of the contract offered by the board, the
17 teacher fails to accept the contract.

18 B. Notice of the board's intention not to reemploy the teacher shall
19 be by delivering it personally to the teacher or by sending it by registered
20 or certified mail to the teacher at the teacher's place of residence as
21 recorded in the school district records. The notice shall incorporate a
22 statement of reasons for not reemploying the teacher. If the reasons are
23 charges of inadequacy of classroom performance as defined by the governing
24 board pursuant to section 15-539, subsection D, the board or its authorized
25 representative, at least ninety days prior to such notice, shall give the
26 teacher written preliminary notice of inadequacy, specifying the nature of
27 the inadequacy with such particularity as to furnish the teacher an
28 opportunity to correct the inadequacies and overcome the grounds for such
29 charge. The governing board may delegate to employees of the governing board
30 the general authority to issue preliminary notices of inadequacy of classroom
31 performance to teachers pursuant to this subsection without the need for
32 prior approval of each notice by the governing board. In all cases in which
33 an employee of the governing board issues a preliminary notice of inadequacy
34 of classroom performance without prior approval by the governing board, the
35 employee shall report its issuance to the governing board within five school
36 days. The written notice of intention not to reemploy shall include a copy
37 of any evaluation pertinent to the charges made and filed with the board.

38 C. Nothing in this section shall be construed to provide a
39 certificated teacher who has not been employed by the school district for
40 more than the major portion of three consecutive school years and who has
41 received notice of the board's intention not to offer a teaching contract
42 with the right to a hearing pursuant to section 15-539, subsection G.

43 Sec. 4. Repeal

44 Section 15-536, Arizona Revised Statutes, as amended by Laws 2010,
45 chapter 98, section 6, is repealed.

1 to the teacher of the board's intent not to offer a contract and to dismiss
2 the teacher as provided in section 15-539.

3 B. The teacher's acceptance of the contract must be indicated within
4 ~~thirty~~ FIFTEEN BUSINESS days from the date of the TEACHER'S RECEIPT OF THE
5 written contract or the offer of a contract is revoked. RECEIPT UNDER THIS
6 SUBSECTION WILL BE DEEMED TO HAVE OCCURRED WHEN THE WRITTEN CONTRACT IS
7 PERSONALLY DELIVERED, PLACED IN THE TEACHER'S SCHOOL PROVIDED MAILBOX,
8 INCLUDING ELECTRONIC MAIL, OR TWO DAYS AFTER BEING PLACED IN A UNITED STATES
9 POSTAL SERVICE MAIL BOX. The teacher accepts the contract by signing the
10 contract and returning it to the governing board or by making a written
11 instrument which accepts the terms of the contract and delivering it to the
12 governing board. If the written instrument includes terms in addition to the
13 terms of the contract offered by the board, the teacher fails to accept the
14 contract.

15 Sec. 8. Repeal

16 Section 15-538.01, Arizona Revised Statutes, as amended by Laws 2010,
17 chapter 98, section 9, is repealed.

18 Sec. 9. Repeal

19 Section 15-538.01, Arizona Revised Statutes, as amended by Laws 2010,
20 chapter 98, section 10, is repealed.

21 Sec. 10. Retroactivity

22 A. Section 15-536, Arizona Revised Statutes, as amended by section 2
23 of this act, applies retroactively to November 24, 2009.

24 B. Section 15-538.01, Arizona Revised Statutes, as amended by section
25 6 of this act, applies retroactively to November 24, 2009.

26 C. Sections 4 and 8 of this act are effective retroactively to
27 November 24, 2009.