

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2067

AN ACT

AMENDING SECTIONS 11-251.02, 15-1625 AND 15-1637, ARIZONA REVISED STATUTES;
RELATING TO THE BOARD OF REGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-251.02, Arizona Revised Statutes, is amended to
3 read:

4 11-251.02. Additional powers of the board

5 The board of supervisors may:

6 1. Authorize the use of county personnel, facilities, equipment,
7 supplies and other resources in search or rescue operations involving the
8 life or health of any person.

9 2. Contract for the acquisition, rental or hire of equipment,
10 services, services supervision, supplies and other resources for use in such
11 search or rescue operations.

12 3. Contract with an ambulance service provider that has a certificate
13 of necessity issued pursuant to title 36, chapter 21.1, article 2 to provide
14 ambulance service in the rural or wilderness service areas in counties with a
15 population of less than five hundred thousand persons.

16 4. CONTRACT WITH A GOVERNMENT AGENCY TO PROVIDE THE SERVICES OF THE
17 CONSTABLE AT FEES THAT ARE LESS THAN THOSE ESTABLISHED BY SECTION 11-445,
18 EXCEPT FOR THOSE SERVICES THAT ARE SPECIFICALLY AUTHORIZED BY LAW TO BE
19 PERFORMED SOLELY BY THE SHERIFF.

20 5. ENTER INTO AGREEMENTS PURSUANT TO SECTION 15-1637, SUBSECTION G,
21 PARAGRAPH 1.

22 Sec. 2. Section 15-1625, Arizona Revised Statutes, is amended to read:

23 15-1625. General powers of board as body corporate; prohibition

24 A. The Arizona board of regents is a body corporate with perpetual
25 succession. The board has jurisdiction and control over the universities.

26 B. The board may:

27 1. Adopt a corporate seal.

28 2. Contract.

29 3. Sue and be sued.

30 4. Purchase, receive, hold, make and take leases and long-term leases
31 of and sell real and personal property for the benefit of this state and for
32 the use of the institutions under its jurisdiction.

33 C. ABSENT EXPRESS AUTHORIZATION BY THE LEGISLATURE, THE BOARD SHALL
34 NOT SERVE DIRECTLY OR INDIRECTLY AS THE GOVERNING BODY OF A NONPROFIT
35 CORPORATION THAT LEASES PROPERTY FROM THE BOARD PURSUANT TO SECTION 15-1637
36 OR FROM ANY CORPORATE MEMBER OR SUBSIDIARY OF THAT NONPROFIT CORPORATION, OR
37 HAVE THE RIGHT TO APPOINT, REMOVE OR REPLACE A MAJORITY OF THE MEMBERS OF THE
38 BOARD OF DIRECTORS OF THAT NONPROFIT CORPORATION OR OTHERWISE EXERCISE
39 SIMILAR CONTROL, DOMINION OR APPROVAL RIGHTS, WHETHER BY CONTRACT OR
40 OTHERWISE, OVER THAT NONPROFIT CORPORATION.

1 Sec. 3. Section 15-1637, Arizona Revised Statutes, is amended to read:
2 15-1637. Lease of property for health care institution:
3 requirements; conditions; reports; directors,
4 members and officers of nonprofit corporation;
5 definition

6 A. The Arizona board of regents may lease real property, improvements
7 or personal property owned by the board to a nonprofit corporation as lessee
8 for purposes of operating a health care institution as defined in section
9 36-401. If the board leases such property for such purposes, whether title
10 to improvements on the property rests in the board or in the lessee, the
11 lease agreement and any amendments, renewals or extensions of the agreement
12 shall be deemed binding and effective according to its terms. If, under the
13 provisions of the lease, improvements or personal property related to the
14 operation of a health care institution are conveyed to the nonprofit
15 corporation, they shall be presumed to have been conveyed for their then fair
16 market value.

17 B. Any lease agreement entered into pursuant to subsection A of this
18 section ~~may~~, at the discretion of the Arizona board of regents, **MAY** contain
19 provisions requiring the nonprofit corporation to acquire the approval of the
20 Arizona board of regents ~~prior to~~ **BEFORE** entering into any business
21 transactions that ~~may~~ **COULD REASONABLY BE EXPECTED TO MATERIALLY AND**
22 adversely affect the interests of this state or that are contained in
23 subsection G, paragraph 2 of this section. The Arizona board of regents shall
24 specify in the lease agreement the type and nature of such transactions ~~which~~
25 **THAT** require prior approval of the board.

26 C. To satisfy the requirements of section 103 of the internal revenue
27 code, as defined in section 43-105, any nonprofit corporation ~~which~~ **THAT** is a
28 lessee as described in subsection A of this section is declared to be:

29 1. A validly organized and existing body politic and corporate
30 exercising its powers for the benefit of the people, to improve their health
31 and welfare and to increase their prosperity.

32 2. Engaged in a purpose essential to public health care.

33 3. Performing an essential governmental function.

34 D. Any nonprofit corporation ~~which~~ **THAT** is a lessee as described in
35 subsection A of this section is exempt from property taxation by this state
36 or any agency or subdivision of this state and possesses and may exercise
37 ~~only those powers of the Arizona board of regents which are delegated to the~~
38 ~~nonprofit corporation by the Arizona board of regents and~~ **ALL OF THE POWERS**
39 ~~which~~ **THAT** are necessary to satisfy the requirements of section 103 of the
40 internal revenue code, as defined in section 43-105, as specified in the
41 terms, conditions, restrictions and agreements of the lease agreement. These
42 powers are in addition to all those powers granted to a nonprofit corporation
43 by title 10, chapters 24 through 40.

44 E. Any nonprofit corporation ~~which~~ **THAT** is a lessee as described in
45 subsection A of this section may issue bonds and incur obligations and pledge

1 its revenues as security for the payment of the bonds or other obligations
2 for health care institutional purposes to the extent provided by the lease
3 agreement or amendments, renewals or extensions of the agreement. ~~Nothing in~~
4 This section shall NOT be construed to authorize the incurrence of a debt by
5 the state within the meaning of any constitutional restriction on debt.

6 F. Except as provided in subsection G of this section, any nonprofit
7 corporation ~~which~~ THAT is a lessee as described in subsection A of this
8 section may acquire by purchase, lease or otherwise, and may operate, other
9 health care institutions and real and personal property for purposes of
10 providing products and services related to the operation of health care
11 institutions owned, leased or operated by it. Such acquisition or operation
12 does not affect the powers, rights, privileges or immunities conferred on
13 such nonprofit corporation by this section.

14 G. ~~No~~ ANY nonprofit corporation ~~which~~ THAT is a lessee as described in
15 subsection A of this section shall NOT:

16 1. ~~Until September 1, 1986~~ Enter into any agreement with a county or a
17 nonprofit corporation to which property is conveyed pursuant to section
18 11-256.03, subsection A if the agreement provides for the conveyance of any
19 ownership interest whatever in the nonprofit corporation to which property is
20 conveyed pursuant to section 11-256.03, subsection A or in the property
21 described in section 11-256.03, subsection A UNLESS THE AGREEMENT IS REVIEWED
22 BY THE JOINT COMMITTEE ON CAPITAL REVIEW. ~~After August 31, 1986 any such~~
23 ~~agreement must be approved by the Arizona board of regents and the~~
24 ~~legislature.~~ This subsection does not prevent the grant of an option to
25 purchase such property, ~~provided that the option may not be exercised before~~
26 ~~September 1, 1986~~ and the exercise of the option must be ~~approved by the~~
27 ~~Arizona board of regents and the legislature~~ REVIEWED BY THE JOINT COMMITTEE
28 ON CAPITAL REVIEW. ~~Under no circumstances shall any~~ State general fund
29 monies SHALL NOT be used to acquire any interest in such property.

30 2. Own, lease, manage or operate any other health care institution or
31 other real or personal property unless such acquisition, management or
32 operation either:

33 (a) Relates to and furthers the educational or research purposes and
34 goals of ~~the~~ A HOSPITAL AFFILIATED WITH THE university of Arizona ~~hospital~~.

35 (b) Promotes the efficient and economical operation of ~~the~~ A HOSPITAL
36 AFFILIATED WITH THE university of Arizona ~~hospital~~ or any other health care
37 institution acquired pursuant to paragraph 1 of this subsection.

38 H. A nonprofit corporation ~~which~~ THAT is a lessee as described in
39 subsection A of this section may manage and operate property described in
40 section 11-256.03, subsection A subject to the restrictions of subsection G
41 of this section. Any management or operation agreement shall provide that
42 the nonprofit corporation ~~which~~ THAT is a lessee as described in subsection A
43 of this section shall not be liable for any bonds or other obligation of any
44 kind relating to the ownership or operation of the property described in

1 section 11-256.03, subsection A incurred before the property is conveyed to
2 such nonprofit corporation in accordance with subsection G of this section.

3 I. A health care institution ~~which~~ THAT is the subject of a lease
4 agreement as described in subsection A of this section is subject to section
5 15-1630.

6 J. A nonprofit corporation ~~which~~ THAT is a lessee as described in
7 subsection A of this section shall make semiannual progress reports as to its
8 financial status and deliver them on January 1 and July 1 of each year to the
9 Arizona board of regents, the president of the senate, the speaker of the
10 house of representatives and the governor. The nonprofit corporation shall
11 present an independently audited financial statement to the auditor general
12 within ninety days ~~of~~ AFTER the close of the previous fiscal year. The
13 auditor general shall review such statements and transmit them together with
14 a report to officers entitled to receive progress reports by this subsection.

15 K. Any nonprofit corporation ~~which~~ THAT is a lessee as described in
16 subsection A of this section shall:

17 1. Be organized ~~as a~~ AND HAVE AS ITS CORPORATE MEMBERS, IF ANY, ONLY
18 ENTITIES ORGANIZED AS nonprofit ~~corporation~~ CORPORATIONS pursuant to title
19 10, chapters 24 through 40 ~~only upon the approval of the Arizona board of~~
20 ~~regents~~. ANY CORPORATE MEMBER OF WHOLLY OWNED SUBSIDIARIES OF THE NONPROFIT
21 CORPORATION, IF ANY, SHALL HAVE A GOVERNING BOARD THAT IS COMPOSED IN THE
22 SAME MANNER SPECIFIED IN THIS SUBSECTION.

23 2. UNTIL JUNE 30, 2011, be governed by a board of directors, the
24 members of which are appointed by the Arizona board of regents, provided that
25 no more than forty-nine per cent of the members of such board of directors of
26 the nonprofit corporation shall be officers or employees of this state and of
27 such forty-nine per cent only two members of such board of directors may be
28 members of the Arizona board of regents. Members of the Arizona board of
29 regents who are appointed to the board of directors of such nonprofit
30 corporation shall be residents of different counties unless all members of
31 the board of regents are residents of the same county.

32 3. BEGINNING JULY 1, 2011, BE GOVERNED BY A BOARD OF DIRECTORS
33 COMPOSED OF THE FOLLOWING MEMBERS:

34 (a) THE CHIEF EXECUTIVE OFFICER OF THE NONPROFIT CORPORATION.

35 (b) THE CHIEF FINANCIAL OFFICER OF THE NONPROFIT CORPORATION.

36 (c) THE DEAN OF THE UNIVERSITY OF ARIZONA COLLEGE OF MEDICINE.

37 (d) THE PRESIDENT OF THE UNIVERSITY OF ARIZONA.

38 (e) ONE DEPARTMENT CHAIRPERSON FROM THE UNIVERSITY OF ARIZONA COLLEGE
39 OF MEDICINE, WHO IS INITIALLY APPOINTED BY THE GOVERNOR AND WHO IS
40 SUBSEQUENTLY APPOINTED BY THE BOARD OF DIRECTORS OF THE NONPROFIT
41 CORPORATION.

42 (f) ONE MEMBER OF THE FACULTY MEDICAL STAFF OF THE HOSPITAL OR
43 HOSPITALS OPERATED BY THE NONPROFIT CORPORATION, WHO IS INITIALLY APPOINTED
44 BY THE GOVERNOR AND WHO IS SUBSEQUENTLY APPOINTED BY THE BOARD OF DIRECTORS
45 OF THE NONPROFIT CORPORATION.

1 (g) TWELVE INDEPENDENT COMMUNITY BOARD MEMBERS, AS DEFINED IN THE
2 UNITED STATES INTERNAL REVENUE CODE, FOUR OF WHOM ARE INITIALLY APPOINTED BY
3 THE GOVERNOR, FOUR OF WHOM ARE INITIALLY APPOINTED BY THE PRESIDENT OF THE
4 SENATE AND FOUR OF WHOM ARE INITIALLY APPOINTED BY THE SPEAKER OF THE HOUSE
5 OF REPRESENTATIVES. THE GOVERNOR MAY USE ONE OF THE GOVERNOR'S FOUR INITIAL
6 APPOINTMENTS TO APPOINT HIMSELF OR HERSELF AS A NONVOTING MEMBER OF THE
7 BOARD. THE INITIAL MEMBERS APPOINTED PURSUANT TO THIS SUBDIVISION SHALL
8 ASSIGN THEMSELVES BY LOT TO TERMS OF TWO, THREE AND FOUR YEARS IN OFFICE.
9 ALL SUBSEQUENT MEMBERS APPOINTED PURSUANT TO THIS SUBDIVISION SERVE FOUR YEAR
10 TERMS OF OFFICE. THE INITIAL INDEPENDENT COMMUNITY BOARD MEMBERS SHALL BE
11 APPOINTED BY THE APPOINTING AUTHORITY SPECIFIED IN THIS SUBDIVISION, AND THE
12 SUCCESSORS OF THOSE INITIAL APPOINTEES SHALL BE SELECTED BY THE BOARD OF
13 DIRECTORS OF THE NONPROFIT CORPORATION. THE BOARD OF DIRECTORS SHALL ENSURE
14 THAT THE NONPROFIT CORPORATION FULFILLS THE EDUCATIONAL OR RESEARCH PURPOSES
15 AND GOALS OF A HOSPITAL AFFILIATED WITH THE UNIVERSITY OF ARIZONA.

16 ~~3-~~ 4. Be organized under articles of incorporation or bylaws ~~approved~~
17 ~~by the Arizona board of regents which shall~~ THAT provide among other things
18 that:

19 (a) ~~No~~ Earnings of the nonprofit corporation shall NOT inure to the
20 benefit of or be distributable to its members, directors, officers or other
21 individuals, except that the nonprofit corporation shall be authorized to pay
22 reasonable compensation for services rendered to it by individuals other than
23 members of the board of directors of the nonprofit corporation acting solely
24 in such capacity, to reimburse expenses in connection with services rendered
25 to or expenses incurred on behalf of the nonprofit corporation and to make
26 payments and distributions in furtherance of the purposes of the nonprofit
27 corporation.

28 (b) ~~Upon~~ ON the dissolution or liquidation of the nonprofit
29 corporation, the board of directors of the nonprofit corporation ~~shall~~, after
30 paying or making provision for the payment of all of the liabilities of the
31 nonprofit corporation, SHALL distribute all of the assets of the nonprofit
32 corporation to the Arizona board of regents or its successor.

33 ~~(c) Neither the articles of incorporation nor the bylaws of the~~
34 ~~nonprofit corporation shall be amended without the approval of the Arizona~~
35 ~~board of regents.~~

36 ~~(d)~~ (c) The board of directors of the nonprofit corporation may adopt
37 nondiscriminatory rules ~~and regulations~~ providing for the use of A HOSPITAL
38 AFFILIATED WITH the university of Arizona ~~hospital~~ by, and staff privileges
39 for, any persons licensed under title 32, chapter 7, 13 or 17 whether or not
40 such persons have a faculty teaching appointment with the school of medicine,
41 ~~providing, however, that such~~ IF THOSE rules ~~and regulations shall~~ contain
42 requirements sufficient to protect the educational and research purposes and
43 goals of A HOSPITAL AFFILIATED WITH the university of Arizona ~~hospital~~.

44 ~~L. No member of the Arizona board of regents who is also a member or~~
45 ~~director of a nonprofit corporation which is a lessee as described in~~

1 ~~subsection A of this section shall as a regent vote upon any matter~~
2 ~~pertaining to such a corporation as may come before the Arizona board of~~
3 ~~regents.~~

4 ~~M.~~ L. For the purposes of this section, "nonprofit corporation" means
5 a corporation as defined in section 10-3140.

6 Sec. 4. Intent

7 It is the intent of the legislature that the board of directors of the
8 nonprofit corporation that governs a hospital affiliated with the university
9 of Arizona ensures that the hospital be operated exclusively for charitable,
10 scientific and educational purposes. Specifically, the board shall promote
11 the delivery of medical and health care services and be operated to perform
12 the functions of, or to carry out the purposes of, the university of Arizona
13 and its college of medicine.

14 Sec. 5. Saving clause

15 This act does not affect any contracts that were executed pursuant to
16 section 15-1637, Arizona Revised Statutes, as amended by this act, before the
17 effective date of this act.

18 Sec. 6. Retroactivity

19 Section 15-1637, Arizona Revised Statutes, as amended by this act,
20 applies retroactively to from and after June 30, 2011.