

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

# HOUSE BILL 2286

AN ACT

AMENDING SECTIONS 15-182 AND 41-1005, ARIZONA REVISED STATUTES; RELATING TO EDUCATION RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-182, Arizona Revised Statutes, is amended to  
3 read:

4 15-182. State board for charter schools: membership; terms;  
5 compensation; duties

6 A. The state board for charter schools is established consisting of  
7 the following members:

8 1. The superintendent of public instruction or the superintendent's  
9 designee.

10 2. Six members of the general public, at least two of whom shall  
11 reside in a school district where at least sixty ~~per cent~~ PERCENT of the  
12 children who attend school in the district meet the eligibility  
13 requirements established under the national school lunch and child  
14 nutrition acts (42 United States Code sections 1751 through 1785) for free  
15 lunches, and at least one of whom shall reside on an Indian reservation,  
16 who are appointed by the governor pursuant to section 38-211.

17 3. Two members of the business community who are appointed by the  
18 governor pursuant to section 38-211.

19 4. A teacher who provides classroom instruction at a charter school  
20 and who is appointed by the governor pursuant to section 38-211.

21 5. An operator of a charter school who is appointed by the governor  
22 pursuant to section 38-211.

23 6. Three members of the legislature who shall serve as advisory  
24 members and who are appointed jointly by the president of the senate and  
25 the speaker of the house of representatives.

26 B. The superintendent of public instruction shall serve a term on  
27 the state board for charter schools that runs concurrently with the  
28 superintendent's term of office. The members appointed pursuant to  
29 subsection A, paragraph 6 of this section shall serve ~~two-year~~ TWO-YEAR  
30 terms on the state board for charter schools that begin and end on the  
31 third Monday in January and that run concurrently with their respective  
32 terms of office. Members appointed pursuant to subsection A, paragraphs  
33 2, 3, 4 and 5 of this section shall serve staggered ~~four-year~~ FOUR-YEAR  
34 terms that begin and end on the third Monday in January.

35 C. The state board for charter schools shall annually elect a  
36 president and such other officers as it deems necessary from among its  
37 membership.

38 D. Members of the state board for charter schools are not eligible  
39 to receive compensation but are eligible for reimbursement of expenses  
40 pursuant to title 38, chapter 4, article 2.

41 E. The state board for charter schools shall:

42 1. Exercise general supervision over charter schools THAT ARE  
43 sponsored by the board, ~~and~~ recommend legislation pertaining to charter  
44 schools to the legislature AND ADOPT RULES AND POLICIES THAT THE BOARD  
45 DEEMS NECESSARY TO ACCOMPLISH THE PURPOSES PRESCRIBED IN THIS SECTION.

- 1           2. Grant charter status to qualifying applicants for charter  
2 schools pursuant to section 15-183.
- 3           3. Adopt and use an official seal in the authentication of its  
4 acts.
- 5           4. Keep a record of its proceedings.
- 6           5. Adopt rules for its own government.
- 7           6. Determine the policy of the board and the work undertaken by it.
- 8           7. Delegate to the superintendent of public instruction the  
9 execution of board policies.
- 10          8. Prepare a budget for expenditures necessary for the proper  
11 maintenance of the board and the accomplishment of its purpose.
- 12          F. The state board for charter schools may:
  - 13           1. Contract.
  - 14           2. Sue and be sued.
  - 15           3. Use the services of the auditor general.
  - 16           4. Subject to title 41, chapter 4, article 4 and legislative  
17 appropriation, employ staff.
- 18          G. The state board for charter schools may accept gifts or grants  
19 of monies or real or personal property from public and private  
20 organizations, if the purpose of the gift or grant specified by the donor  
21 is approved by the board and is within the scope of the board's powers and  
22 duties. The board shall establish and administer a gift and grant fund  
23 for the deposit of monies received pursuant to this subsection.
- 24          Sec. 2. Section 41-1005, Arizona Revised Statutes, is amended to  
25 read:
  - 26           41-1005. Exemptions
  - 27           A. This chapter does not apply to any:
    - 28            1. Rule that relates to the use of public works, including streets  
29 and highways, under the jurisdiction of an agency if the effect of the  
30 order is indicated to the public by means of signs or signals.
    - 31            2. Order or rule of the Arizona game and fish commission that does  
32 the following:
      - 33            (a) Opens, closes or alters seasons or establishes bag or  
34 possession limits for wildlife.
      - 35            (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.
      - 36            (c) Establishes a license classification, fee or application fee  
37 pursuant to title 17, chapter 3, article 2.
    - 38            3. Rule relating to section 28-641 or to any rule regulating motor  
39 vehicle operation that relates to speed, parking, standing, stopping or  
40 passing enacted pursuant to title 28, chapter 3.
    - 41            4. Rule concerning only the internal management of an agency that  
42 does not directly and substantially affect the procedural or substantive  
43 rights or duties of any segment of the public.
    - 44            5. Rule that only establishes specific prices to be charged for  
45 particular goods or services sold by an agency.

- 1           6. Rule concerning only the physical servicing, maintenance or care
- 2 of agency owned or operated facilities or property.
- 3           7. Rule or substantive policy statement concerning inmates or
- 4 committed youths of a correctional or detention facility in secure custody
- 5 or patients admitted to a hospital, if made by the state department of
- 6 corrections, the department of juvenile corrections, the board of
- 7 executive clemency or the department of health services or a facility or
- 8 hospital under the jurisdiction of the state department of corrections,
- 9 the department of juvenile corrections or the department of health
- 10 services.
- 11           8. Form whose contents or substantive requirements are prescribed
- 12 by rule or statute, and instructions for the execution or use of the form.
- 13           9. Capped fee-for-service schedule adopted by the Arizona health
- 14 care cost containment system administration pursuant to title 36,
- 15 chapter 29.
- 16           10. Fees prescribed by section 6-125.
- 17           11. Order of the director of water resources adopting or modifying
- 18 a management plan pursuant to title 45, chapter 2, article 9.
- 19           12. Fees established under section 3-1086.
- 20           13. Fees established under sections 41-4010 and 41-4042.
- 21           14. Rule or other matter relating to agency contracts.
- 22           15. Fees established under section 32-2067 or 32-2132.
- 23           16. Rules made pursuant to section 5-111, subsection A.
- 24           17. Rules made by the Arizona state parks board concerning the
- 25 operation of the Tonto natural bridge state park, the facilities located
- 26 in the Tonto natural bridge state park and the entrance fees to the Tonto
- 27 natural bridge state park.
- 28           18. Fees or charges established under section 41-511.05.
- 29           19. Emergency medical services protocols except as provided in
- 30 section 36-2205, subsection B.
- 31           20. Fee schedules established pursuant to section 36-3409.
- 32           21. Procedures of the state transportation board as prescribed in
- 33 section 28-7048.
- 34           22. Rules made by the state department of corrections.
- 35           23. Fees prescribed pursuant to section 32-1527.
- 36           24. Rules made by the department of economic security pursuant to
- 37 section 46-805.
- 38           25. Schedule of fees prescribed by section 23-908.
- 39           26. Procedure that is established pursuant to title 23, chapter 6,
- 40 article 6.
- 41           27. Rules, administrative policies, procedures and guidelines
- 42 adopted for any purpose by the Arizona commerce authority pursuant to
- 43 chapter 10 of this title if the authority provides, as appropriate under
- 44 the circumstances, for notice of an opportunity for comment on the
- 45 proposed rules, administrative policies, procedures and guidelines.

1           28. Rules made by a marketing commission or marketing committee  
2 pursuant to section 3-414.

3           29. Administration of public assistance program monies authorized  
4 for liabilities that are incurred for disasters declared pursuant to  
5 sections 26-303 and 35-192.

6           30. User charges, tolls, fares, rents, advertising and sponsorship  
7 charges, services charges or similar charges established pursuant to  
8 section 28-7705.

9           31. Administration and implementation of the hospital assessment  
10 pursuant to section 36-2901.08, except that the Arizona health care cost  
11 containment system administration must provide notice and an opportunity  
12 for public comment at least thirty days before establishing or  
13 implementing the administration of the assessment.

14           32. Rules made by the Arizona department of agriculture to adopt  
15 and implement the provisions of the federal milk ordinance as prescribed  
16 by section 3-605.

17           B. Notwithstanding subsection A, paragraph 21 of this section, at  
18 such time as the federal highway administration authorizes the  
19 privatization of rest areas, the state transportation board shall make  
20 rules governing the lease or license by the department of transportation  
21 to a private entity for the purposes of privatization of a rest area.

22           C. Coincident with the making of a final rule pursuant to an  
23 exemption from the applicability of this chapter under this section,  
24 another statute or session law, the agency shall file a copy of the rule  
25 with the secretary of state for publication pursuant to section 41-1012  
26 and provide a copy to the council.

27           D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this  
28 chapter do not apply to the Arizona board of regents and the institutions  
29 under its jurisdiction, except that the Arizona board of regents shall  
30 make policies or rules for the board and the institutions under its  
31 jurisdiction that provide, as appropriate under the circumstances, for  
32 notice of and opportunity for comment on the policies or rules proposed.

33           E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this  
34 chapter do not apply to the Arizona state schools for the deaf and the  
35 blind, except that the board of directors of all the state schools for the  
36 deaf and the blind shall adopt policies for the board and the schools  
37 under its jurisdiction that provide, as appropriate under the  
38 circumstances, for notice of and opportunity for comment on the policies  
39 proposed for adoption.

40           F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this  
41 chapter do not apply to the state board of education, except that the  
42 state board of education shall adopt policies or rules for the board and  
43 the institutions under its jurisdiction that provide, as appropriate under  
44 the circumstances, for notice of and opportunity for comment on the  
45 policies or rules proposed for adoption. In order to implement or change

1 any rule, the state board of education shall provide at least two  
2 opportunities for public comment. THE STATE BOARD OF EDUCATION SHALL  
3 CONSIDER THE FISCAL IMPACT OF ANY PROPOSED RULE PURSUANT TO THIS  
4 SUBSECTION.

5 G. UNLESS OTHERWISE REQUIRED BY LAW, ARTICLES 2, 3, 4 AND 5 OF THIS  
6 CHAPTER DO NOT APPLY TO THE STATE BOARD FOR CHARTER SCHOOLS, EXCEPT THAT  
7 THE BOARD SHALL ADOPT POLICIES OR RULES FOR THE BOARD AND THE CHARTER  
8 SCHOOLS SPONSORED BY THE BOARD THAT PROVIDE, AS APPROPRIATE UNDER THE  
9 CIRCUMSTANCES, FOR NOTICE OF AND OPPORTUNITY FOR COMMENT ON THE POLICIES  
10 OR RULES PROPOSED FOR ADOPTION. IN ORDER TO IMPLEMENT OR CHANGE ANY  
11 POLICY OR RULE, THE BOARD SHALL PROVIDE AT LEAST TWO OPPORTUNITIES FOR  
12 PUBLIC COMMENT. THE STATE BOARD FOR CHARTER SCHOOLS SHALL CONSIDER THE  
13 FISCAL IMPACT OF ANY PROPOSED RULE PURSUANT TO THIS SUBSECTION.