

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

CHAPTER 183
HOUSE BILL 2323

AN ACT

AMENDING SECTIONS 15-158, 15-189.04 AND 15-342, ARIZONA REVISED STATUTES;
RELATING TO THE ADMINISTRATION OF INHALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-158, Arizona Revised Statutes, is amended to
3 read:

4 15-158. Emergency administration of inhalers by trained
5 personnel; immunity; definitions

6 A. Pursuant to a standing order issued by the chief medical officer
7 of a county health department, a physician licensed pursuant to title 32,
8 chapter 13 or 17 or a nurse practitioner licensed pursuant to title 32,
9 chapter 15, A NURSE WHO IS UNDER CONTRACT WITH A SCHOOL DISTRICT OR
10 CHARTER SCHOOL OR an employee of a school district or charter school who
11 is trained in the administration of inhalers may administer or assist in
12 the administration of an inhaler to a pupil or an adult whom the employee
13 OR CONTRACTED NURSE believes in good faith to be exhibiting symptoms of
14 respiratory distress while at school or at a school-sponsored activity. A
15 school district or charter school may accept monetary donations for or
16 apply for grants for the purchase of inhalers and spacers or holding
17 chambers or may accept donations of inhalers and spacers or holding
18 chambers directly from the product manufacturer.

19 B. Chief medical officers of county health departments, physicians
20 licensed pursuant to title 32, chapter 13 or 17, nurse practitioners
21 licensed pursuant to title 32, chapter 15, school districts, charter
22 schools, ~~and~~ employees of school districts and charter schools AND NURSES
23 WHO ARE UNDER CONTRACT WITH A SCHOOL DISTRICT OR CHARTER SCHOOL are immune
24 from civil liability with respect to all decisions made and actions taken
25 that are based on good faith implementation of the requirements of this
26 section, except in cases of gross negligence, wilful misconduct or
27 intentional wrongdoing.

28 C. For the purposes of this section:

29 1. "Bronchodilator" means albuterol or another short-acting
30 bronchodilator that is approved by the United States food and drug
31 administration for the treatment of respiratory distress.

32 2. "Inhaler" means a device that delivers a bronchodilator to
33 alleviate symptoms of respiratory distress, that is manufactured in the
34 form of a metered-dose inhaler or dry-powder inhaler and that includes a
35 spacer or holding chamber that attaches to the inhaler to improve the
36 delivery of the bronchodilator.

37 3. "Respiratory distress" includes the perceived or actual presence
38 of coughing, wheezing or shortness of breath.

39 Sec. 2. Section 15-189.04, Arizona Revised Statutes, is amended to
40 read:

41 15-189.04. Policies and procedures for the emergency
42 administration of epinephrine and inhalers

43 The governing body of each charter school shall prescribe and
44 enforce policies and procedures for the emergency administration of
45 epinephrine auto-injectors by a trained employee of the charter school

1 pursuant to section 15-157 and may prescribe and enforce policies and
2 procedures for the emergency administration of inhalers by a trained
3 employee of the charter school OR A NURSE WHO IS UNDER CONTRACT WITH THE
4 CHARTER SCHOOL pursuant to section 15-158.

5 Sec. 3. Section 15-342, Arizona Revised Statutes, is amended to
6 read:

7 15-342. Discretionary powers

8 The governing board may:

- 9 1. Expel pupils for misconduct.
- 10 2. Exclude from grades one through eight children under six years
11 of age.
- 12 3. Make such separation of groups of pupils as it deems advisable.
- 13 4. Maintain such special schools during vacation as deemed
14 necessary for the benefit of the pupils of the school district.
- 15 5. Permit a superintendent or principal or representatives of the
16 superintendent or principal to travel for a school purpose, as determined
17 by a majority vote of the board. The board may permit members and
18 members-elect of the board to travel within or without the school district
19 for a school purpose and receive reimbursement. Any expenditure for
20 travel and subsistence pursuant to this paragraph shall be as provided in
21 title 38, chapter 4, article 2. The designated post of duty referred to
22 in section 38-621 shall be construed, for school district governing board
23 members, to be the member's actual place of residence, as opposed to the
24 school district office or the school district boundaries. Such
25 expenditures shall be a charge against the budgeted school district funds.
26 The governing board of a school district shall prescribe procedures and
27 amounts for reimbursement of lodging and subsistence expenses.
28 Reimbursement amounts shall not exceed the maximum amounts established
29 pursuant to section 38-624, subsection C.
- 30 6. Construct or provide in rural districts housing facilities for
31 teachers and other school employees that the board determines are
32 necessary for the operation of the school.
- 33 7. Sell or lease to the state, a county, a city, another school
34 district or a tribal government agency any school property required for a
35 public purpose, provided the sale or lease of the property will not affect
36 the normal operations of a school within the school district.
- 37 8. Annually budget and expend funds for membership in an
38 association of school districts within this state.
- 39 9. Enter into leases or lease-purchase agreements for school
40 buildings or grounds, or both, as lessor or as lessee, for periods of less
41 than fifteen years subject to voter approval for construction of school
42 buildings as prescribed in section 15-341, subsection A, paragraph 7.
- 43 10. Subject to chapter 16 of this title, sell school sites or enter
44 into leases or lease-purchase agreements for school buildings and grounds,
45 as lessor or as lessee, for a period of fifteen years or more, but not to

1 exceed ninety-nine years, if authorized by a vote of the school district
2 electors in an election called by the governing board as provided in
3 section 15-491, except that authorization by the school district electors
4 in an election is not required if one of the following requirements is
5 met:

6 (a) The market value of the school property is less than fifty
7 thousand dollars or the property is procured through a renewable energy
8 development agreement, an energy performance contract, which among other
9 items includes a renewable energy power service agreement, or a simplified
10 energy performance contract pursuant to section 15-213.01.

11 (b) The buildings and sites are completely funded with monies
12 distributed by the school facilities board.

13 (c) The transaction involves the sale of improved or unimproved
14 property pursuant to an agreement with the school facilities board in
15 which the school district agrees to sell the improved or unimproved
16 property and transfer the proceeds of the sale to the school facilities
17 board in exchange for monies from the school facilities board for the
18 acquisition of a more suitable school site. For a sale of property
19 acquired by a school district prior to July 9, 1998, a school district
20 shall transfer to the school facilities board that portion of the proceeds
21 that equals the cost of the acquisition of a more suitable school site.
22 If there are any remaining proceeds after the transfer of monies to the
23 school facilities board, a school district shall only use those remaining
24 proceeds for future land purchases approved by the school facilities
25 board, or for capital improvements not funded by the school facilities
26 board for any existing or future facility.

27 (d) The transaction involves the sale of improved or unimproved
28 property pursuant to a formally adopted plan and the school district uses
29 the proceeds of this sale to purchase other property that will be used for
30 similar purposes as the property that was originally sold, provided that
31 the sale proceeds of the improved or unimproved property are used within
32 two years after the date of the original sale to purchase the replacement
33 property. If the sale proceeds of the improved or unimproved property are
34 not used within two years after the date of the original sale to purchase
35 replacement property, the sale proceeds shall be used towards payment of
36 any outstanding bonded indebtedness. If any sale proceeds remain after
37 paying for outstanding bonded indebtedness, or if the district has no
38 outstanding bonded indebtedness, sale proceeds shall be used to reduce the
39 district's primary tax levy. A school district shall not use this
40 subdivision unless all of the following conditions exist:

41 (i) The school district is the sole owner of the improved or
42 unimproved property that the school district intends to sell.

43 (ii) The school district did not purchase the improved or
44 unimproved property that the school district intends to sell with monies
45 that were distributed pursuant to chapter 16 of this title.

1 (iii) The transaction does not violate section 15-341,
2 subsection G.

3 11. Review the decision of a teacher to promote a pupil to a grade
4 or retain a pupil in a grade in a common school or to pass or fail a pupil
5 in a course in high school. The pupil has the burden of proof to overturn
6 the decision of a teacher to promote, retain, pass or fail the pupil. In
7 order to sustain the burden of proof, the pupil shall demonstrate to the
8 governing board that the pupil has mastered the academic standards adopted
9 by the state board of education pursuant to sections 15-701 and 15-701.01.
10 If the governing board overturns the decision of a teacher pursuant to
11 this paragraph, the governing board shall adopt a written finding that the
12 pupil has mastered the academic standards. Notwithstanding title 38,
13 chapter 3, article 3.1, the governing board shall review the decision of a
14 teacher to promote a pupil to a grade or retain a pupil in a grade in a
15 common school or to pass or fail a pupil in a course in high school in
16 executive session unless a parent or legal guardian of the pupil or the
17 pupil, if emancipated, disagrees that the review should be conducted in
18 executive session and then the review shall be conducted in an open
19 meeting. If the review is conducted in executive session, the board shall
20 notify the teacher of the date, time and place of the review and shall
21 allow the teacher to be present at the review. If the teacher is not
22 present at the review, the board shall consult with the teacher before
23 making its decision. Any request, including the written request as
24 provided in section 15-341, the written evidence presented at the review
25 and the written record of the review, including the decision of the
26 governing board to accept or reject the teacher's decision, shall be
27 retained by the governing board as part of its permanent records.

28 12. Provide transportation or site transportation loading and
29 unloading areas for any child or children if deemed for the best interest
30 of the district, whether within or without the district, county or state.

31 13. Enter into intergovernmental agreements and contracts with
32 school districts or other governing bodies as provided in section 11-952.
33 Intergovernmental agreements and contracts between school districts or
34 between a school district and other governing bodies as provided in
35 section 11-952 are exempt from competitive bidding under the procurement
36 rules adopted by the state board of education pursuant to section 15-213.

37 14. Include in the curricula it prescribes for high schools in the
38 school district career and technical education, vocational education and
39 technology education programs and career and technical, vocational and
40 technology program improvement services for the high schools, subject to
41 approval by the state board of education. The governing board may
42 contract for the provision of career and technical, vocational and
43 technology education as provided in section 15-789.

44 15. Suspend a teacher or administrator from the teacher's or
45 administrator's duties without pay for a period of time of not to exceed

1 ten school days, if the board determines that suspension is warranted
2 pursuant to section 15-341, subsection A, paragraphs 21 and 22.

3 16. Dedicate school property within an incorporated city or town to
4 such city or town or within a county to that county for use as a public
5 right-of-way if both of the following apply:

6 (a) Pursuant to an ordinance adopted by such city, town or county,
7 there will be conferred upon the school district privileges and benefits
8 that may include benefits related to zoning.

9 (b) The dedication will not affect the normal operation of any
10 school within the district.

11 17. Enter into option agreements for the purchase of school sites.

12 18. Donate surplus or outdated learning materials, educational
13 equipment and furnishings to nonprofit community organizations where the
14 governing board determines that the anticipated cost of selling the
15 learning materials, educational equipment or furnishings equals or exceeds
16 the estimated market value of the materials.

17 19. Prescribe policies for the assessment of reasonable fees for
18 students to use district-provided parking facilities. The fees are to be
19 applied by the district solely against costs incurred in operating or
20 securing the parking facilities. Any policy adopted by the governing
21 board pursuant to this paragraph shall include a fee waiver provision in
22 appropriate cases of need or economic hardship.

23 20. Establish alternative educational programs that are consistent
24 with the laws of this state to educate pupils, including pupils who have
25 been reassigned pursuant to section 15-841, subsection E or F.

26 21. Require a period of silence to be observed at the commencement
27 of the first class of the day in the schools. If a governing board
28 chooses to require a period of silence to be observed, the teacher in
29 charge of the room in which the first class is held shall announce that a
30 period of silence not to exceed one minute in duration will be observed
31 for meditation, and during that time no activities shall take place and
32 silence shall be maintained.

33 22. Require students to wear uniforms.

34 23. Exchange unimproved property or improved property, including
35 school sites, where the governing board determines that the improved
36 property is unnecessary for the continued operation of the school district
37 without requesting authorization by a vote of the school district electors
38 if the governing board determines that the exchange is necessary to
39 protect the health, safety or welfare of pupils or when the governing
40 board determines that the exchange is based on sound business principles
41 for either:

42 (a) Unimproved or improved property of equal or greater value.

43 (b) Unimproved property that the owner contracts to improve if the
44 value of the property ultimately received by the school district is of
45 equal or greater value.

1 24. For common and high school pupils, assess reasonable fees for
2 optional extracurricular activities and programs conducted when the common
3 or high school is not in session, except that no fees shall be charged for
4 pupils' access to or use of computers or related materials. For high
5 school pupils, the governing board may assess reasonable fees for fine
6 arts and vocational education courses and for optional services, equipment
7 and materials offered to the pupils beyond those required to successfully
8 complete the basic requirements of any other course, except that no fees
9 shall be charged for pupils' access to or use of computers or related
10 materials. Fees assessed pursuant to this paragraph shall be adopted at a
11 public meeting after notice has been given to all parents of pupils
12 enrolled at schools in the district and shall not exceed the actual costs
13 of the activities, programs, services, equipment or materials. The
14 governing board shall authorize principals to waive the assessment of all
15 or part of a fee assessed pursuant to this paragraph if it creates an
16 economic hardship for a pupil. For the purposes of this paragraph,
17 "extracurricular activity" means any optional, noncredit, educational or
18 recreational activity that supplements the education program of the
19 school, whether offered before, during or after regular school hours.

20 25. Notwithstanding section 15-341, subsection A, paragraphs 7 and
21 9, construct school buildings and purchase or lease school sites, without
22 a vote of the school district electors, if the buildings and sites are
23 totally funded from one or more of the following:

24 (a) Monies in the unrestricted capital outlay fund, except that the
25 estimated cost shall not exceed two hundred fifty thousand dollars for a
26 district that utilizes section 15-949.

27 (b) Monies distributed from the school facilities board established
28 by section 15-2001.

29 (c) Monies specifically donated for the purpose of constructing
30 school buildings.

31 This paragraph shall not be construed to eliminate the requirement for an
32 election to raise revenues for a capital outlay override pursuant to
33 section 15-481 or a bond election pursuant to section 15-491.

34 26. Conduct a background investigation that includes a fingerprint
35 check conducted pursuant to section 41-1750, subsection G for certificated
36 personnel and personnel who are not paid employees of the school district,
37 as a condition of employment. A school district may release the results
38 of a background check to another school district for employment purposes.
39 The school district may charge the costs of fingerprint checks to its
40 fingerprinted employee, except that the school district may not charge the
41 costs of fingerprint checks for personnel who are not paid employees of
42 the school district.

43 27. Unless otherwise prohibited by law, sell advertising as follows:

44 (a) Advertisements shall be age appropriate and not contain
45 promotion of any substance that is illegal for minors such as alcohol,

1 tobacco and drugs or gambling. Advertisements shall comply with the state
2 sex education policy of abstinence.

3 (b) Advertising approved by the governing board for the exterior of
4 school buses may appear only on the sides of the bus in the following
5 areas:

6 (i) The signs shall be below the seat level rub rail and not extend
7 above the bottom of the side windows.

8 (ii) The signs shall be at least three inches from any required
9 lettering, lamp, wheel well or reflector behind the service door or stop
10 signal arm.

11 (iii) The signs shall not extend from the body of the bus so as to
12 allow a handhold or present a danger to pedestrians.

13 (iv) The signs shall not interfere with the operation of any door
14 or window.

15 (v) The signs shall not be placed on any emergency doors.

16 (c) The school district shall establish an advertisement fund that
17 is composed of revenues from the sale of advertising. The monies in an
18 advertisement fund are not subject to reversion.

19 28. Assess reasonable damage deposits to pupils in grades seven
20 through twelve for the use of textbooks, musical instruments, band
21 uniforms or other equipment required for academic courses. The governing
22 board shall adopt policies on any damage deposits assessed pursuant to
23 this paragraph at a public meeting called for this purpose after providing
24 notice to all parents of pupils in grades seven through twelve in the
25 school district. Principals of individual schools within the district may
26 waive the damage deposit requirement for any textbook or other item if the
27 payment of the damage deposit would create an economic hardship for the
28 pupil. The school district shall return the full amount of the damage
29 deposit for any textbook or other item if the pupil returns the textbook
30 or other item in reasonably good condition within the time period
31 prescribed by the governing board. For the purposes of this paragraph,
32 "in reasonably good condition" means the textbook or other item is in the
33 same or a similar condition as it was when the pupil received it, plus
34 ordinary wear and tear.

35 29. Notwithstanding section 15-1105, expend surplus monies in the
36 civic center school fund for maintenance and operations or unrestricted
37 capital outlay, if sufficient monies are available in the fund after
38 meeting the needs of programs established pursuant to section 15-1105.

39 30. Notwithstanding section 15-1143, expend surplus monies in the
40 community school program fund for maintenance and operations or
41 unrestricted capital outlay, if sufficient monies are available in the
42 fund after meeting the needs of programs established pursuant to section
43 15-1142.

44 31. Adopt guidelines for standardization of the format of the school
45 report cards required by section 15-746 for schools within the district.

1 32. Adopt policies that require parental notification when a law
2 enforcement officer interviews a pupil on school grounds. Policies
3 adopted pursuant to this paragraph shall not impede a peace officer from
4 the performance of the peace officer's duties. If the school district
5 governing board adopts a policy that requires parental notification:

6 (a) The policy may provide reasonable exceptions to the parental
7 notification requirement.

8 (b) The policy shall set forth whether and under what circumstances
9 a parent may be present when a law enforcement officer interviews the
10 pupil, including reasonable exceptions to the circumstances under which a
11 parent may be present when a law enforcement officer interviews the pupil,
12 and shall specify a reasonable maximum time after a parent is notified
13 that an interview of a pupil by a law enforcement officer may be delayed
14 to allow the parent to be present.

15 33. Enter into voluntary partnerships with any party to finance with
16 funds other than school district funds and cooperatively design school
17 facilities that comply with the adequacy standards prescribed in section
18 15-2011 and the square footage per pupil requirements pursuant to section
19 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and
20 location of any such school facility shall be submitted to the school
21 facilities board for approval pursuant to section 15-2041, subsection 0.
22 If the school facilities board approves the design plans and location of
23 any such school facility, the party in partnership with the school
24 district may cause to be constructed and the district may begin operating
25 the school facility before monies are distributed from the school
26 facilities board pursuant to section 15-2041. Monies distributed from the
27 new school facilities fund to a school district in a partnership with
28 another party to finance and design the school facility shall be paid to
29 the school district pursuant to section 15-2041. The school district
30 shall reimburse the party in partnership with the school district from the
31 monies paid to the school district pursuant to section 15-2041, in
32 accordance with the voluntary partnership agreement. Before the school
33 facilities board distributes any monies pursuant to this subsection, the
34 school district shall demonstrate to the school facilities board that the
35 facilities to be funded pursuant to section 15-2041, subsection 0 meet the
36 minimum adequacy standards prescribed in section 15-2011. If the cost to
37 construct the school facility exceeds the amount that the school district
38 receives from the new school facilities fund, the partnership agreement
39 between the school district and the other party shall specify that, except
40 as otherwise provided by the other party, any such excess costs shall be
41 the responsibility of the school district. The school district governing
42 board shall adopt a resolution in a public meeting that an analysis has
43 been conducted on the prospective effects of the decision to operate a new
44 school with existing monies from the school district's maintenance and
45 operations budget and how this decision may affect other schools in the

1 school district. If a school district acquires land by donation at an
2 appropriate school site approved by the school facilities board and a
3 school facility is financed and built on the land pursuant to this
4 paragraph, the school facilities board shall distribute an amount equal to
5 twenty percent of the fair market value of the land that can be used for
6 academic purposes. The school district shall place the monies in the
7 unrestricted capital outlay fund and increase the unrestricted capital
8 budget limit by the amount of the monies placed in the fund. Monies
9 distributed under this paragraph shall be distributed from the new school
10 facilities fund pursuant to section 15-2041. If a school district
11 acquires land by donation at an appropriate school site approved by the
12 school facilities board and a school facility is financed and built on the
13 land pursuant to this paragraph, the school district shall not receive
14 monies from the school facilities board for the donation of real property
15 pursuant to section 15-2041, subsection F. It is unlawful for:

16 (a) A county, city or town to require as a condition of any land
17 use approval that a landowner or landowners that entered into a
18 partnership pursuant to this paragraph provide any contribution, donation
19 or gift, other than a site donation, to a school district. This
20 subdivision only applies to the property in the voluntary partnership
21 agreement pursuant to this paragraph.

22 (b) A county, city or town to require as a condition of any land
23 use approval that the landowner or landowners located within the
24 geographic boundaries of the school subject to the voluntary partnership
25 pursuant to this paragraph provide any donation or gift to the school
26 district except as provided in the voluntary partnership agreement
27 pursuant to this paragraph.

28 (c) A community facilities district established pursuant to title
29 48, chapter 4, article 6 to be used for reimbursement of financing the
30 construction of a school pursuant to this paragraph.

31 (d) A school district to enter into an agreement pursuant to this
32 paragraph with any party other than a master planned community party. Any
33 land area consisting of at least three hundred twenty acres that is the
34 subject of a development agreement with a county, city or town entered
35 into pursuant to section 9-500.05 or 11-1101 shall be deemed to be a
36 master planned community. For the purposes of this subdivision, "master
37 planned community" means a land area consisting of at least three hundred
38 twenty acres, which may be noncontiguous, that is the subject of a zoning
39 ordinance approved by the governing body of the county, city or town in
40 which the land is located that establishes the use of the land area as a
41 planned area development or district, planned community development or
42 district, planned unit development or district or other land use category
43 or district that is recognized in the local ordinance of such county, city
44 or town and that specifies the use of such land is for a master planned
45 development.

1 34. Enter into an intergovernmental agreement with a presiding judge
2 of the juvenile court to implement a law-related education program as
3 defined in section 15-154. The presiding judge of the juvenile court may
4 assign juvenile probation officers to participate in a law-related
5 education program in any school district in the county. The cost of
6 juvenile probation officers who participate in the program implemented
7 pursuant to this paragraph shall be funded by the school district.

8 35. Offer to sell outdated learning materials, educational equipment
9 or furnishings at a posted price commensurate with the value of the items
10 to pupils who are currently enrolled in that school district before those
11 materials are offered for public sale.

12 36. If the school district is a small school district as defined in
13 section 15-901, and if permitted by federal law, opt out of federal grant
14 opportunities if the governing board determines that the federal
15 requirements impose unduly burdensome reporting requirements.

16 37. Prescribe and enforce policies and procedures for the emergency
17 administration of inhalers by trained employees of the school district AND
18 NURSES WHO ARE UNDER CONTRACT WITH THE SCHOOL DISTRICT pursuant to section
19 15-158.

20 38. Develop policies and procedures to allow principals to budget
21 for or assist with budgeting federal, state and local monies.

APPROVED BY THE GOVERNOR APRIL 11, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2018.