

**Selected Non-Budgetary and Non-School Finance Provisions
Of House Bill 2011 – Chapter 12, 49th Legislature, 3rd Special Session,
Signed September 4, 2009, with a general effective date of November 24, 2009**

This Bill is extensive – 156 pages in length – and should be read for a complete understanding of all its terms. This summary does not include reference to budget-related matters, nor does it include all the non-budget measures passed. Rather, it attempts to highlight many of the operational provisions that may come up in regular district activities. A link to the full Bill is here:

<http://www.azleg.gov/FormatDocument.asp?format=print&inDoc=/legtext/49leg/3S/laws/0012.htm>

Employment

Superintendent Certification now Optional by Statute; Qualifications to be Set by Governing Board:

§ 15-203: The State Board of Education certification rules shall only allow, not require, a Superintendent to be certificated; also the State Board’s authority to certify Superintendents is confirmed.

§ 15-503: The Governing Board (or if jointly employed by two districts, both Boards) shall determine a Superintendent’s qualifications by action at a public meeting. Every Superintendent, whether certificated or not, must have a valid fingerprint clearance card.

Business Manager Certification Not Required:

§ 15-203: The State Board of Education certification rules shall not require a Business Manager to be certificated.

Business Manager Expertise - Optional:

§ 15-502: The district may employ a business manager with expertise and training in accounting or finance, school finance or public finance, or other training or experience.

Paid Time Off for Professional Association (e.g., AEA) Activities Not Permitted:

§ 15-504: Employment contracts can’t include compensated days (without use of leave days) for “professional association activities”; this doesn’t include pupil field trips. Employees can take compensated leave time for personal, professional and other lawful purposes, if leave balances are used.

RIF and Retention Policies Based on Tenure or Seniority Now Prohibited:

§ 15-502: A district shall not adopt policies that provide employment retention priority for teachers based on tenure or seniority.

No Beginning, Ending Date Now for Contract Issuance for *Probationary* Teachers:

§ 15-536(A): The duty to issue contracts to returning probationary teachers only between March 15 and May 15, who are not non-renewed, dismissed or RIFfed, is repealed. They can be issued any time before work begins.

No Deadline Now for Non-Renewal of *Probationary* Teachers:

§ 15-536(A), (B): The deadline to non-renew probationary teachers no later than April 15 is repealed. Probationary teachers can be non-renewed any time before a contract is issued, which as noted above can occur any time until work begins [*NOTE: recall that dismissal of a probationary teacher during the contract year (in contrast with non-renewal at the end of the contract year) can still occur at any time, with the due process called for in § 15-539. Also, despite repeal of the April 15 deadline for non-renewal of probationary teachers, the April 15 deadline to non-renew an administrator, and the May 15 deadline to issue a contract to an administrator who is not non-renewed, both found in § 15-503, remain in effect.*]

No Beginning, Ending Date Now for Contract Issuance for *Tenured* Teachers:

§ 15-538.01(A): The duty to issue contracts to returning tenured teachers only between March 15 and May 15, who are not dismissed or RIFfed, is repealed. They can be issued any time before work begins.

No Deadline to Complete Teacher or Administrator Dismissal Proceedings by May 15:

§ 15-538.01(C): This subsection is repealed. It required that dismissal of a teacher had to be completed by May 15 in many circumstances.

Notice of Inadequacy of Classroom Performance – Tenured Teacher’s Correction Period Now 60 + 10 = 70 Days:

§ 15-539: The correction period is shortened to 60, no longer 85, instructional days, following the 10 day notice period (total correction period is thus 60 + 10 = 70 instructional days from receipt of written preliminary notice of inadequacy of classroom performance).

Effective Date of Teacher or Administrator Dismissal After Governing Board Vote Now 10 Days After Notice:

§ 15-539: A teacher's or administrator's dismissal is effective now 10 (no longer 30) days from the date of notice of the Governing Board's vote to dismiss unless the teacher requests a hearing within that 10 day period.

Hearing On a Teacher or Administrator Dismissal Now 15-30 Days From Request:

§ 15-541: The hearing, if requested by the teacher or administrator, is to occur not less than 15 nor more than 30 days (previously 10 to 25 days) from request unless otherwise mutually agreed.

General Salary Reduction Not Required In Order to Reduce Teachers' Salaries

§ 15-544(A): The requirement to implement a *general salary reduction applied equitably among all tenured teachers* before reducing a tenured teacher's salary is repealed.

§ 15-544(B): If a general salary reduction is implemented among all teachers, the deadline to notify teachers of the salary reduction by May 15 is repealed.

3-Year Recall Rights After a Reduction in Force (RIF) – Repealed

§ 15-544 [repealed]: The “preferred right of reappointment in the order of original employment” in the event of an increase in teachers or reestablishment of services within 3 years [*i.e.*, 3-year recall rights] is repealed.

Returned Retirees – Those Drawing ASRS Benefits and Working on District Payroll – Not Entitled to Notice of Non-renewal if Not Returning:

§ 38-766.01: the employment of teachers who are returned retirees hasn't been subject to tenure and dismissal statutes, and now isn't subject to § 15-536, which means that there's clearly no duty to formally non-renew such a teacher at the end of a contract. Simply don't offer a new contract, and the employment relationship is ended.

Multihazard Crisis Training No Longer Required:

§ 15-341: The requirement to assign at least one district employee to participate in this training is repealed.

Student Discipline

Use of Hearing Officers for Student Discipline Hearings Can be Approved in Advance:

§ 15-843: The Governing Board may provide either by Policy, or by vote at its annual organizational meeting, that all expulsion hearings will be conducted before a hearing officer selected from a list of hearing officers approved by the Board.

Documentation of, Discipline For Bullying

Investigation of Harassment, Intimidation & Bullying: Investigation and Determination Required Before Imposing Student Discipline

§ 15-341: If a school maintains documentation of reported incidents of harassment, intimidation or bullying, which must be maintained as confidential, the school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred.

Special Education

Competitive Bidding Not Required to Make a Private School Placement

§ 15-213: School Districts are not required to engage in competitive bidding to select a private school for a special education placement if the pupil's IEP calls for that placement and the private school is approved by ADE pursuant to § 15-765(D).

IGAs

Use of IGAs Doesn't Require Bidding:

§ 15-342: Intergovernmental Agreements (IGAs) and contracts between school districts or between a school district and another government agency are exempt from competitive bidding under the procurement rules adopted by the state board of education.

Filing or Recording IGAs with Secretary of State or County Recorder Not Required:

§ 11-952: The duty to file Intergovernmental Agreements (IGAs) with the Secretary of State or record them with the County Recorder is repealed. The duty to notify the Secretary of State if a school district extends the duration of an IGA which was filed with the Secretary of State is repealed.

Board Member Swearing In

Board Members Can Be Sworn In And Immediately (Instead of a Day Later) Begin to Serve

§ 38-232: The prior rule that the oath of office had to be taken and signed at least 1 day before commencement of the term of office is removed. Now the oath can be taken and signed at any time at or before commencement of the term of office.

Leases

Use of Specialized Attorney or Broker in Commercial Real Estate Leases Not Required:

§ 15-341: The requirement to engage an attorney or real estate broker who specializes in commercial real estate to negotiate a lease of 5 years or more is repealed.

District Sale of Advertising Space for Use by Private Parties

Sale of Advertising Space at Athletic Facilities and on Websites Now Permitted

§ 15-342: Districts may sell advertising space on athletic facilities and on their websites now, in addition to space on school buses. Website advertising shall be age appropriate and not contain promotion of substances illegal for minors (alcohol, tobacco, drugs or gambling), and shall “comply with the state sex education policy of abstinence.”

Procurement – Lobbying

Soliciting Contracts is Not Lobbying Requiring Lobbyist Registration:

§ 41-1232.04: A person contacting a Governing Board member or employee regarding procurement or fulfillment of contracts for materials, services (including bonding services) or construction isn't deemed a lobbyist subject to registration with the Secretary of State.

[Note also the procurement changes above under Special Education (no need to bid private school placements) and IGAs (no need to bid when a project is handled under an IGA or other contract with other public bodies.)]

Accounting Responsibility

Districts of Any Size May Petition to Handle Their Own Accounting

§ 15-914.01: The limitation to districts of at least 4,000 students is removed – any district can petition the State Board of Education to assume its own accounting responsibilities.

Audits

Districts May Be Permitted to Do Only Biennial, Not Annual, Audits

§ 15-914, § 15-914.01: If a district has no “significant negative findings”, *i.e.*, has not received a letter of noncompliance from the Auditor General on its last audit, and federal law permits, it can convert to biennial audits – until a letter of noncompliance is received.

Charter Schools

Tuition Must be Charged for Non-resident of Arizona

§ 15-185: If a charter school admits a non-resident of Arizona, tuition calculated per § 15-823 must be charged.

RIF and Retention Policies Based on Tenure or Seniority Now Prohibited:

§ 15-187: A charter school shall not adopt policies that provide employment retention priority for teachers based on tenure or seniority.