

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
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As Engrossed: S3/9/23

A Bill

SENATE BILL 367

By: Senators S. Flowers, L. Chesterfield, B. Davis, G. Leding, F. Love, R. Murdock, C. Tucker, *J. Boyd, J. Bryant, Caldwell, Crowell, J. English, Flippo, Gilmore, Hester, B. Johnson, B. King, M. McKee, C. Penzo, Stone, G. Stubblefield, D. Wallace*

By: Representatives *Holcomb, F. Allen, Beaty Jr., M. Berry, Joey Carr, Cavanaugh, Clowney, A. Collins, Cozart, Ennett, D. Ferguson, K. Ferguson, L. Fite, V. Flowers, D. Garner, Gramlich, Hudson, Maddox, Magie, McCullough, Nicks, Perry, J. Richardson, Richmond, Rye, Scott, T. Shephard, Springer, Wardlaw, Warren, Watson, D. Whitaker, Wooten*

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING UNUSED OR UNDERUTILIZED FACILITIES OWNED BY A PUBLIC SCHOOL DISTRICT; TO AMEND THE LAW CONCERNING THE RIGHT OF FIRST REFUSAL TO PURCHASE OR LEASE AN ACADEMIC FACILITY A SCHOOL DISTRICT DECIDES TO TRANSFER OWNERSHIP OF, SELL, OR LEASE; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING UNUSED OR UNDERUTILIZED PUBLIC SCHOOL FACILITIES; TO AMEND THE LAW CONCERNING THE RIGHT OF FIRST REFUSAL TO PURCHASE OR LEASE A PUBLIC SCHOOL DISTRICT ACADEMIC FACILITY; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-21-815(c)(1) and (2), concerning to whom a school district shall make unused or underutilized public school facilities available, is amended to read as follows:



(c)(1)(A)(i) Except as otherwise provided in this section, a school district shall make unused or underutilized public school facilities available at no cost to the municipality in which the school district's boundaries are located.

(ii) The head of the municipality shall exercise the right to a school district's unused or underutilized public school facilities at no cost to the municipality under subdivision (c)(1)(A)(i) of this section.

(B)(i) If the municipality in which a school district is located waives its right of first refusal to a school district's unused or underutilized public school facilities, then the school district shall make the unused or underutilized public school facilities available for lease or purchase for no more than fair market value to any open-enrollment public charter school located within the geographical boundaries of the school district.

(ii) The fair market value of a school district's unused or underutilized public school facilities shall be ascertained and determined by an independent third party appraisal.

(2) ~~Onee~~ If the municipality in which a school district is located waives its right of first refusal to a school district's unused or underutilized public school facilities under subdivision (c)(1)(B) of this section, following a public school facility or other real property ~~is being~~ identified by the division as an unused or underutilized public school facility, then a public charter school may give notice of its intent to purchase or lease the public school facility or other real property from the school district no earlier than the later of:

(A) The date the public school facility or other real property is first identified by the division as an unused or underutilized public school facility; or

(B) If the public school facility or other real property has already been designated in the school district's facilities master plan to be reused, renovated, or demolished as part of a specific committed project or planned new construction project, two (2) years from the date the public school facility or other real property is first identified by the division as an unused or underutilized public school facility.

SECTION 2. Arkansas Code § 6-21-816(b) and (c), concerning steps a school district must take when it decides to sell, lease, or otherwise transfer ownership of an academic facility, public school facility, or other real property, are amended to read as follows:

(b)(1)(A)(i) If a school district decides to sell, lease, or otherwise transfer ownership of an academic facility or other real property, an open-enrollment public charter school located which the municipality in which the school district's boundaries are located shall have a right of first refusal to purchase or lease the facility for fair market value acquire the academic facility or other real property at no cost to the municipality.

(ii) The head of the municipality shall exercise the right to a school district's unused or underutilized public school facilities at no cost to the municipality under subdivision (b)(1)(A)(i) of this section.

(iii)(a) If a school district that decides to sell, lease, or otherwise transfer ownership of an academic facility or other real property under subdivision (b)(1)(A)(i) of this section is not located in a municipality, then then the county in which the school district is located shall have a right of first refusal to acquire the academic facility or other real property at no cost to the county before a third party may offer to purchase or lease the academic facility or other real property for fair market value.

(b) The fair market value of a school district's unused or underutilized public school facilities shall be ascertained and determined by an independent third party appraisal.

(iv)(a) If a municipality or county, as applicable, waives its right of first refusal under this subdivision (b)(1)(A)(iv), then an open-enrollment public charter school located within the school district's boundaries shall have a right of first refusal to purchase or lease an academic facility or other real property for fair market value.

(b) The fair market value of a school district's unused or underutilized public school facilities shall be ascertained and determined by an independent third party appraisal.

(B) If the school district ceases to use a public school facility as an academic facility, the right of first refusal shall continue for two (2) years after the date the public school facility or other real

property was last used as an academic facility.

(C) If there is more than one (1) open-enrollment public charter school located within the boundaries of the school district, the right of first refusal available to an open-enrollment public charter school under subdivision (b)(1)(A)(iv) of this section shall be available to ~~the~~ an open-enrollment public charter school according to a priority list determined by the charter authorizer following a review of the comparative status and educational needs of the open-enrollment public charter schools.

(2)(A)(i) If an open-enrollment public charter school decides to sell or lease a public school facility or other real property purchased by the open-enrollment public charter school under this section or under § 6-21-815, and the sale or lease is to a third party that is not ~~a~~ an open-enrollment public charter school, the school district in which the public school facility or other real property is located shall have a right of first refusal to purchase or lease the public school facility or other real property for fair market value, subject to any mortgage or lien attached to the public school facility or other real property.

(ii) The fair market value of a public school facility or other real property shall be ascertained and determined by an independent third party appraisal.

(B) ~~The~~ A school district may waive its right of first refusal under subdivision (b)(2)(A) of this section if the public school facility or other real property or its revenues are to be pledged by the open-enrollment public charter school as security for debt to fund the purchase or renovation of the public school facility or other real property.

(3) Subject to the priority list under subdivision (b)(1)(C) of this section, nothing in this subchapter shall be construed to delay or limit the authority of a school district to sell, lease, or otherwise transfer a public school facility or other real property to ~~a~~ an open-enrollment public charter school on terms agreed to by the school district and open-enrollment public charter school.

(c) If a public school facility or other real property has been identified by the Division of Public School Academic Facilities and Transportation as an unused or underutilized public school facility as required under § 6-21-815 and a municipality or county, as applicable, waives its right of first refusal under subdivision (b)(1)(A) of this

section, ~~the~~ a school district may sell or lease the unused or underutilized public school facility to a third party, other than an open-enrollment public charter school, no earlier than the later of:

(1) Two (2) years after the date the public school facility or other real property is identified by the division as an unused or underutilized public school facility, so long as ~~no~~ an open-enrollment public charter school has claimed a right of access under § 6-21-815 or a right of first refusal under this section; or

(2) If the unused or underutilized public school facility has been designated in the school district's facilities master plan to be reused, renovated, or demolished as part of a specific committed project or planned new construction project, three (3) years from the date the public school facility or other real property is identified by the division as an unused or underutilized public school facility.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that over a period of time, a number of public school facilities and academic facilities have been sold to third parties for uses other than those originally intended by individuals within the boundaries of public school districts; that the taxpaying individuals who reside in municipalities and counties, as applicable, in which public school districts are located should have the first opportunity to continue to receive the benefits of public school facilities, academic facilities, and other real property owned by the public school districts; that closures of public school facilities and academic facilities are imminent throughout school districts in the State of Arkansas; and that it is essential for the State of Arkansas to ensure that tax dollars and state services originally intended to directly benefit taxpaying citizens continue to benefit those taxpaying citizens if at all possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/S. Flowers