

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 367

5 By: Senators S. Flowers, L. Chesterfield, B. Davis, G. Leding, F. Love, R. Murdock, C. Tucker
6

For An Act To Be Entitled

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

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18 TO AMEND THE LAW CONCERNING UNUSED OR
19 UNDERUTILIZED PUBLIC SCHOOL FACILITIES;
20 TO AMEND THE LAW CONCERNING THE RIGHT OF
21 FIRST REFUSAL TO PURCHASE OR LEASE A
22 PUBLIC SCHOOL DISTRICT ACADEMIC FACILITY;
23 AND TO DECLARE AN EMERGENCY.
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25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 6-21-815(c)(1) and (2), concerning to whom
29 a school district shall make unused or underutilized public school facilities
30 available, is amended to read as follows:

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

35 (ii) The head of the municipality shall exercise the
36 right to a school district's unused or underutilized public school facilities



1 at no cost to the municipality under subdivision (c)(1)(A)(i) of this
2 section.

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

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

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

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

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

30
31 SECTION 2. Arkansas Code § 6-21-816(b) and (c), concerning steps a
32 school district must take when it decides to sell, lease, or otherwise
33 transfer ownership of an academic facility, public school facility, or other
34 real property, are amended to read as follows:

35 (b)(1)(A)(i) If a school district decides to sell, lease, or otherwise
36 transfer ownership of an academic facility or other real property, ~~an open-~~

1 ~~enrollment public charter school located which~~ the municipality in which the
 2 school district's boundaries are located shall have a right of first refusal
 3 to ~~purchase or lease the facility for fair market value~~ acquire the academic
 4 facility or other real property at no cost to the municipality.

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

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

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

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

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

28 (B) If the school district ceases to use a public school
 29 facility as an academic facility, the right of first refusal shall continue
 30 for two (2) years after the date the public school facility or other real
 31 property was last used as an academic facility.

32 (C) If there is more than one (1) open-enrollment public
 33 charter school located within the boundaries of the school district, the
 34 right of first refusal available to an open-enrollment public charter school
 35 under subdivision (b)(1)(A)(iv) of this section shall be available to ~~the~~ an
 36 open-enrollment public charter school according to a priority list determined

1 by the charter authorizer following a review of the comparative status and
2 educational needs of the open-enrollment public charter schools.

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

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

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

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

26 (c) If a public school facility or other real property has been
27 identified by the Division of Public School Academic Facilities and
28 Transportation as an unused or underutilized public school facility as
29 required under § 6-21-815 and a municipality or county, as applicable,
30 waives its right of first refusal under subdivision (b)(1)(A) of this
31 section, the a school district may sell or lease the unused or underutilized
32 public school facility to a third party, other than an open-enrollment public
33 charter school, no earlier than the later of:

34 (1) Two (2) years after the date the public school facility or
35 other real property is identified by the division as an unused or
36 underutilized public school facility, so long as ~~ne~~ an open-enrollment public

1 charter school has claimed a right of access under § 6-21-815 or a right of
2 first refusal under this section; or

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

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

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

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

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