

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

As Engrossed: S3/9/23

A Bill

SENATE BILL 367

5 By: Senators S. Flowers, L. Chesterfield, B. Davis, G. Leding, F. Love, R. Murdock, C. Tucker, *J. Boyd,*
6 *J. Bryant, Caldwell, Crowell, J. English, Flippo, Gilmore, Hester, B. Johnson, B. King, M. McKee, C.*
7 *Penzo, Stone, G. Stubblefield, D. Wallace*
8 *By: Representatives Holcomb, F. Allen, Beaty Jr., M. Berry, Joey Carr, Cavanaugh, Clowney, A. Collins,*
9 *Cozart, Ennett, D. Ferguson, K. Ferguson, L. Fite, V. Flowers, D. Garner, Gramlich, Hudson, Maddox,*
10 *Magie, McCullough, Nicks, Perry, J. Richardson, Richmond, Rye, Scott, T. Shephard, Springer, Wardlaw,*
11 *Warren, Watson, D. Whitaker, Wooten*

For An Act To Be Entitled

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

Subtitle

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

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

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



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

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 (c)(1)(A)(i) of this
8 section.

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

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

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

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

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

36

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

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

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

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

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

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

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

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

1 property was last used as an academic facility.

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

9 (2)(A)(i) If an open-enrollment public charter school decides to
10 sell or lease a public school facility or other real property purchased by
11 the open-enrollment public charter school under this section or under § 6-21-
12 815, and the sale or lease is to a third party that is not ~~a~~ an open-
13 enrollment public charter school, the school district in which the public
14 school facility or other real property is located shall have a right of first
15 refusal to purchase or lease the public school facility or other real
16 property for fair market value, subject to any mortgage or lien attached to
17 the public school facility or other real property.

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

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

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

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

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

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

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

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

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

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

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

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/s/S. Flowers