

White
Signature of Sponsor

AMEND Senate Bill No. 135*

House Bill No. 1191

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-13-104, is amended by deleting subdivision (14) and substituting instead the following:

(14) "Underutilized property":

(A) Means a building or portion thereof, with or without improvements, which is not used or is used irregularly or intermittently, as defined by the state board of education, by an LEA for instructional or program purposes, including, but not limited to, spaces suitable for classroom use that are currently being used for storage of any kind; and

(B) Does not include real property on which a building or permanent structure has not been erected or vacant property; and

(15) "Vacant property":

(A) Means a building, with or without improvements, which is closed or no longer used for direct academic instruction for students in pre-kindergarten through grade twelve (pre-K-12), or any combination thereof, including, but not limited to, spaces suitable for classroom use that are currently being used for storage of any kind; and

(B) Does not include real property on which a building or permanent structure has not been erected.

SECTION 2. Tennessee Code Annotated, Section 49-13-136, is amended by deleting subsections (c) and (d) and substituting instead:

(c)

(1) By May 1, 2025, and by each May 1 thereafter, an LEA in which one (1) or more public charter schools operate shall publish the following information on the LEA's website for each building operated by the LEA, including buildings owned by the LEA that are currently being used by a public charter school:

(A) The address or location of each building and the total square footage of, and the number of classrooms in, each school building;

(B) The portion of the total square footage of a building that is used by the LEA for direct instruction to students in pre-kindergarten through grade twelve (pre-K-12), or any combination thereof;

(C) The enrollment capacity of each building and the number of students in pre-kindergarten through grade twelve (pre-K-12), or any combination thereof, receiving academic instruction in the building; and

(D) If a building is not used by the LEA for direct academic instruction for students in pre-kindergarten through grade twelve (pre-K-12), or any combination thereof, the manner in which the school building is used, including whether the building is vacant or is being used for administration, storage, or professional development.

(2) An LEA in which one (1) or more public charter schools operate shall submit a comprehensive listing of all underutilized property or vacant property to the department of education and the comptroller of the treasury. The department shall make an LEA's list available to a public charter school operating in the LEA or to a sponsor seeking to establish a public charter school in the LEA.

(3) A public charter school may petition the comptroller of the treasury for an audit of the list of all underutilized property or vacant property submitted by the LEA in which the public charter school is, or will be, geographically located. The comptroller of the treasury is authorized to promulgate rules, in accordance

with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the administration of this subdivision (c)(3).

(4)

(A) A public charter school operating within the geographic boundaries of an LEA, excluding public charter schools in the achievement school district, has a right of first refusal to:

(i) Purchase vacant property listed by the LEA under this section at or below fair market value for educational purposes; or

(ii) Lease underutilized property or vacant property listed by the LEA under this section at or below fair market value for educational purposes. A lease agreement executed between a public charter school and an LEA must not reflect any outstanding bonded debt on the underutilized property or vacant property, except as agreed upon to reflect any necessary costs associated with the occupation or remodeling of the facility.

(B) For purposes of this subsection (c), "fair market value for educational purposes" is determined by taking the average of two (2) separate appraisals conducted by two (2) independent, qualified appraisers, one (1) selected by the LEA and one (1) selected by the public charter school.

(5)

(A) Upon the execution of a lease agreement pursuant to this section, a public charter school has unrestricted use of the property. The public charter school shall provide for routine maintenance and repair so that the leased property is maintained in as good of order as when the lease was executed. The public charter school is responsible for paying all utilities used by the public charter school at the leased property.

Extensive repairs to buildings or facilities considered capital expenses are the responsibility of the LEA funding body and not the public charter school. If the public charter school makes extensive repairs to buildings or facilities considered capital expenses, then the capital expenses must be credited against the cost of the lease. Any fixtures, improvements, or tangible assets added to leased property by the public charter school pursuant to this section must remain at the leased property upon the public charter school's return of the leased property to the LEA.

(B) If the LEA decides to sell the school building that the public charter school is leasing, then the public charter school must be provided the right of first refusal to purchase the school building at or below fair market value for educational purposes, less the value of all rental payments made to the LEA during the term of the lease.

(C) If, during the term of the lease, the charter school closes or ceases using the building, then the building must be placed on the LEA's vacant or underutilized property list pursuant to this subsection (c).

(d) The state board of education is authorized to promulgate rules, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the administration of this section.

SECTION 3. Tennessee Code Annotated, Section 49-13-136, is amended by adding the following as a new subsection:

(g) The property tax exemptions in §§ 67-5-203 and 67-5-212 apply to public charter school property, including any facility, or portion thereof, used to house a public charter school.

SECTION 4. This act takes effect July 1, 2024, the public welfare requiring it.