

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 7143

BILL NUMBER: SB 358

NOTE PREPARED: Feb 22, 2021

BILL AMENDED: Feb 22, 2021

SUBJECT: School Buildings.

FIRST AUTHOR: Sen. Rogers

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill makes various changes to the provisions in the law regarding the transfer of vacant school buildings to charter schools, including changes and additions regarding the following: (1) Exemptions to the provisions. (2) Defining "underutilized" school buildings. (3) Defining "charter organization" and applying the provisions to charter organizations. (4) Time period requirements and other requirements regarding certain notices. (5) Information required to be provided to a charter organization. (6) The responsibility for the maintenance and repair of a school building and financial responsibility for any damage or destruction to a school building. (7) The waiver of rights regarding a school building. (8) Terminating a lease. (9) Establishing a committee if more than one charter organization has provided a preliminary notice of interest in purchasing or leasing a school building. (10) Information regarding school buildings required to be reported to the Department of Education (department). (11) Department requirements if the department determines a school building is underutilized. (12) Appeals to the State Board of Education regarding denials by the department of requests for waivers to remove school buildings from underutilized status. (13) The repurchase of school buildings by school corporations. Repeals provisions distinguishing requirements regarding school buildings that are more than 200,000 square feet and school buildings that are 200,000 square feet or less.

Effective Date: Upon Passage.

Explanation of State Expenditures: (Revised) *Department of Education (DOE):* The bill's requirements on the DOE to: (1) Determine if a school building is underutilized according to the criteria outlined in the bill and administer the appeals process whereby a school corporation or charter organization can appeal the decision; (2) Notify each charter school located in the county in which the school corporation is located, each eligible charter school authorizer, and all statewide organizations representing charter schools in the state,

that a school building is available for lease or purchase, and post the information on its Internet web site; and (3) Appoint, through the office of the Secretary of Education, charter school authorizers to mediate disputes among charter organizations; represent an additional workload [and/or expenditure] on the agency outside of its routine administrative functions, and existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. Any additional staff and resources required could be supplied through existing staff and resources currently being used in another program. The additional time the bill offers for fulfilling its requirements could reduce the amount of additional resources required.

(Revised) *State Board of Education*: The bill requires the State Board to make a determination at its next meeting regarding a denial by the DOE of a request to remove a school building from underutilized status. Depending on when the request for review is submitted to the State Board this may not give the State Board's staff sufficient time to research the request and make a determination.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) School corporations and charter organizations, as applicable, would incur the additional administrative cost associated with: (1) compiling data on how their school buildings are being utilized and submitting the data to the DOE; (2) compiling any additional data to support their claim in the appeal process that the school building in question should not be declared underutilized; (3) if necessary, paying their share of the cost of mediation or arbitration if a dispute with the charter organization leads to mediation, and any additional court costs and attorney's fees if so ordered by the court; and (4) making any necessary repairs to the building, as applicable, before declaring it to be vacant or unused.

Items 1 and 2 would only apply to a charter organization after it has leased or purchased a school building for five years.

Explanation of Local Revenues: Under the bill, the number of school buildings that would be available for purchase or lease by a charter organization is likely to increase. Whether this would lead to an increase in the number of school buildings leased or purchased by charter organizations is unknown at this point. To the extent that there would be an increase in the number of school buildings available for lease or purchase, there could also be a relative increase in the number of school buildings available for sale, subject to all applicable laws and regulations. Additionally, with the removal of restrictions on the sale of school buildings not leased or purchased by a charter organization, this increases the potential for school corporations to sell a school building at a higher price that they otherwise could in the absence of this bill.

The bill makes the following changes to the current statute:

(Revised) (1) It keeps the current pathway regarding unused or vacant school buildings and adds a second pathway under which DOE can place the school building in underutilized status (as defined in the bill). School corporations must submit school utilization data to the DOE annually. If a school building meets the definition of being underutilized for two consecutive fall ADM counts, the DOE would notify the school corporation that the school corporation has to offer the school building for sale or lease to a charter organization. This decision is subject to appeal to the DOE and the State Board.

The second pathway regarding underutilization only applies to a school building that a charter organization has purchased or leased for five years. If the school building in question is determined to be underutilized by the DOE and the State Board, the original school corporation will be notified that it can repurchase the

building for \$1. The school corporation can sell or otherwise dispose of the building, subject to all applicable laws and regulations. If the school corporation does not submit a notice of intent to repurchase the building, the charter organization can sell or transfer the building in accordance with this bill.

(2) It changes the timeline under which a school corporation can dispose of a vacant or underutilized building after first offering it to a charter organization. Under current law, a charter organization has 30 days to make a preliminary request to purchase or lease the school building after receiving notice from DOE; under this bill, the charter organization has 60 days to submit a preliminary request.

(3) Under current law, if the charter organization has submitted a preliminary request to purchase or lease the school building, it has an additional 60 days to issue a final notice of intent to purchase or lease. Under this bill this has been extended to about 200 days after the preliminary request has been submitted.

(4) The bill repeals provisions distinguishing requirements regarding school buildings that are 200,000 square feet or less and school buildings that are more than 200,000 square feet.

(5) A school corporation that sells a school building in violation of current law has to deposit the proceeds of the sale to the Charter School and Innovation Grant Program. This bill rescinds this requirement.

(6) The bill also outlines the exceptions to the normal procedures.

The bill has the following potential fiscal impacts:

(1) A school building that a school corporation chooses not to make eligible for sale or lease by passing a resolution could be declared eligible by DOE because of underutilization. The school corporation would have to make the building available for purchase or lease to any charter organization. If a charter organization were to purchase or lease the school building the impact would be the loss of the building to the school corporation.

(2) A charter organization has more time than under current law before losing its rights to purchase or lease the school building. If the charter organization were to decide not to purchase or lease the building, the impact would be the additional delay in having to put the building up for sale, and possibly foregone revenues if the school building could have been sold earlier.

(3) The removal of the requirement that school buildings less than 200,000 square feet have to be sold to an accredited nonpublic school or a postsecondary institution could increase competition among potential buyers, possibly increasing the selling price and revenues to the school corporation. Similarly, the removal of the current restrictions regarding the sale of school buildings that are larger than 200,000 square feet could result in increased revenues for the school corporation if the building were to be sold.

Additional Information: Under this bill, beginning in school year 2021-2022 and each school year thereafter, school corporations have to submit data on school utilization to the DOE. This has to be completed within 60 days of the fall ADM count.

State Agencies Affected: Department of Education; State Board of Education; State-supported Charter School Authorizers.

Local Agencies Affected: School Corporations; Charter Schools; Indianapolis Charter School Board.

Information Sources:

Fiscal Analyst: David Lusan, 317-232-9592.