

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

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**FISCAL IMPACT STATEMENT**

**LS 7143**

**BILL NUMBER: SB 358**

**NOTE PREPARED: Apr 5, 2021**

**BILL AMENDED: Apr 1, 2021**

**SUBJECT:** School Buildings.

**FIRST AUTHOR:** Sen. Rogers

**FIRST SPONSOR:** Rep. Behning

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that before a governing body may sell, exchange, lease, demolish, hold without operating, or dispose of a school building, the governing body shall: (1) obtain a certification from the Attorney General's office; and (2) make the building available for lease or purchase by a charter school or state educational institution. It provides that before a governing body may sell, exchange, lease, demolish, hold without operating, or dispose of a school building, the governing body must receive a certification from the attorney general to ensure that the governing body is in compliance with requirements for making a vacant school building available for sale or lease to a charter school or state educational institution for \$1.

The bill requires the Attorney General to investigate complaints that a school corporation has not complied with the requirements for making a vacant school building available for sale or lease to a charter school or state educational institution for \$1. It provides that, in the event that a complaint is substantiated, the Attorney General, in consultation with the Department of Education (department) and Indiana State Board of Education (State Board), is authorized to take any action necessary to remedy a substantiated complaint, which may include actions to be performed by the State Board or the department to ensure compliance of a school corporation. It provides that, if a school corporation does not comply with the requirements to sell a vacant school building, as determined by the Attorney General, the school corporation shall submit any proceeds from the sale of the vacant school building to the State Board. It provides that the State Board shall distribute proceeds collected equally between each charter school located in the attendance area of the school corporation.

The bill provides that, if no charter schools are located in the attendance area, the State Board must use the proceeds to provide grants under the charter school and innovation grant program. It provides that a lease

of school property entered into by a governing body prior to January 1, 2019, with a state accredited nonpublic school shall remain in full force and effect. (Current law provides that a lease of school property entered into by a governing body prior to July 1, 2019, with a state accredited nonpublic school shall remain in full force and effect.) It provides that a school corporation is responsible for maintaining a vacant school building until it is: (1) sold or leased to a charter school or state educational institution; (2) sold to an accredited nonpublic school or postsecondary educational institution other than a state educational institution; or (3) eligible to be sold or otherwise disposed.

**Effective Date:** Upon Passage.

**Explanation of State Expenditures:** *Office of the Attorney General:* The bill's requirements on the office of the Attorney General to: (1) Certify that a school corporation is in compliance with the requirements for making a vacant or unused school building available for sale or lease to a charter school or state educational institution (SEI) for \$1; and (2) If necessary, investigate complaints that a school corporation has violated the law, and take any action necessary to remedy a substantiated complaint; could represent an additional workload [and/or expenditure] on the office outside of its routine administrative functions, and existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The number of violations is expected to be quite small so the number of times additional resources may be required is expected to be minimal and temporary. Any additional funds and resources required could be supplied through existing staff and resources currently being used in another program.

*Department of Education (DOE):* If two or more SEIs (but no charter schools) submit preliminary requests to purchase or lease a vacant or unused building, the bill requires the DOE to appoint, through the office of the Secretary of Education, three representatives from other SEIs to determine which SEI would be entitled to lease or purchase the building. The DOE also has to post any certification findings by the Attorney General on its Internet web site. The DOE should be able to fulfill these requirements within its current resources.

[Current law requires that an authorizer committee, made up of representatives of each statewide authorizer, be formed to mediate similar conflicts between charter schools. Under the bill, charter schools are given priority to purchase or lease the building in question.]

*SEI:* Under this bill, a SEI would be treated similarly to a charter school regarding the purchase or lease of a vacant or unused building. They would be permitted to purchase or lease a vacant or unused building for \$1 instead of an amount that in some cases could be market value. This could result in a substantial savings for SEIs.

**Explanation of State Revenues:** *State Board of Education:* In the event that a school corporation has violated the law in selling a school building without proper certification, the school corporation has to submit any proceeds from the sale of the school building to the State Board. The State Board shall distribute proceeds collected equally between each charter school located in the attendance area of the school corporation. If no charter schools are located in the attendance area, the State Board would use the proceeds to provide grants under the Charter School and Innovation Grant Program.

**Explanation of Local Expenditures:** After the school corporation has taken official action to declare a school building vacant or unused, the school corporation would incur the cost of maintaining the building, including repairing any damage or destruction, until the building is disposed of. A school corporation could also incur legal fees if it decides to contest an allegation by the office of the Attorney General of violating

the law regarding a vacant or unused building. If it has violated the law and sold a school building without proper certification, the school corporation, in addition to submitting the proceeds of the sale to the State Board, could also be subject to other sanctions as determined by the Attorney General.

**Explanation of Local Revenues:** By permitting a SEI to purchase or lease a vacant or unused building for \$1 (similar to what a charter school is currently permitted to do), this bill would substantially decrease the revenue a school corporation can earn from the sale of a vacant or unused building to a SEI under current law. Under current law, a SEI has to purchase the building for an amount agreed to with the school corporation, which would probably be closer to market value. The bill would not affect the sale or lease of a school building to a charter school as the charter school would always have priority over a SEI for the building.

Charter schools could receive a distribution from the State Board or the Charter School and Innovation Grant Program if a school corporation has violated the law and has to submit the proceeds of the sale of a school building to the State Board or Charter School and Innovation Grant Program.

The bill also permits a school corporation to end a lease of school property it entered into with a state accredited nonpublic school between January 1 and July 1, 2019. This will give the school corporation the opportunity to eventually dispose of the building in accordance with all applicable laws and regulations.

**State Agencies Affected:** Department of Education; State Board of Education; State-supported Charter School Authorizers; Office of the Attorney General.

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

**Information Sources:**

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