

FIRST REGULAR SESSION

# SENATE BILL NO. 474

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time February 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1939S.011

## AN ACT

To repeal sections 177.011 and 177.088, RSMo, and to enact in lieu thereof two new sections relating to school facilities and equipment.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 177.011 and 177.088, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 177.011 and 177.088, to  
3 read as follows:

177.011. 1. The title of all schoolhouse sites and other school property is  
2 vested in the district in which the property is located, or if the directors of both  
3 school districts involved agree, a school district may own property outside of the  
4 boundaries of the district and operate upon such property for school purposes;  
5 provided that, such property may only be used for school purposes for students  
6 residing in the school district owning such property or students who are enrolled  
7 in such school district as part of a court-ordered desegregation plan. All property  
8 leased or rented for school purposes shall be wholly under the control of the  
9 school board during such time. **With the exception of lease agreements**  
10 **entered into under the provisions of section 177.088**, no board shall lease  
11 or rent any building for school purposes while the district schoolhouse is  
12 unoccupied, and no schoolhouse or school site shall be abandoned or sold until  
13 another site and house are provided for the school district.

14 2. Notwithstanding the provisions of section 178.770, the provisions of  
15 this section shall not apply to community college districts. Nothing in this  
16 subsection shall be construed to impair the duty and authority of the coordinating  
17 board for higher education to approve academic programs under section 173.005.

177.088. 1. As used in this section, the following terms shall mean:

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

2 (1) "Board", the board of education, board of trustees, board of regents, or  
3 board of governors of an educational institution;

4 (2) "Educational institution", any school district, including all community  
5 college districts, and any state college or university organized under chapter 174.

6 2. The board of any educational institution may enter into agreements as  
7 authorized in this section with a [not-for-profit] corporation formed under the  
8 [general not-for-profit corporation law of Missouri, chapter 355] **laws of**  
9 **Missouri**, in order to provide for the acquisition, construction, improvement,  
10 extension, repair, remodeling, renovation and financing of sites, buildings,  
11 facilities, furnishings and equipment for the use of the educational institution for  
12 educational purposes.

13 3. The board may on such terms as it shall approve:

14 (1) Lease from the corporation sites, buildings, facilities, furnishings and  
15 equipment which the corporation has acquired or constructed; or

16 (2) Notwithstanding the provisions of this chapter or any other provision  
17 of law to the contrary, sell or lease at fair market value, which may be  
18 determined by appraisal, to the corporation any existing sites owned by the  
19 educational institution, together with any existing buildings and facilities  
20 thereon, in order for the corporation to acquire, construct, improve, extend,  
21 repair, remodel, renovate, furnish and equip buildings and facilities thereon, and  
22 then lease back or purchase such sites, buildings and facilities from the  
23 corporation; provided that upon selling or leasing the sites, buildings or facilities,  
24 the corporation agrees to enter into a lease for not more than [one year] **twenty**  
25 **years** but with not more than [twenty-five] **five** successive options by the  
26 educational institution to renew the lease [under the same conditions] **for one**  
27 **year**; and provided further that the corporation agrees to convey or sell the sites,  
28 buildings or facilities, including any improvements, extensions, renovations,  
29 furnishings or equipment, back to the educational institution with clear title at  
30 the end of the [period of successive one-year options] **lease** or at any time bonds,  
31 notes or other obligations issued by the corporation to pay for the improvements,  
32 extensions, renovations, furnishings or equipment have been paid and discharged.

33 4. Any consideration, promissory note or deed of trust which an  
34 educational institution receives for selling or leasing property to a [not-for-profit]  
35 corporation pursuant to this section shall be placed in a separate fund or in  
36 escrow, and neither the principal or any interest thereon shall be commingled  
37 with any other funds of the educational institutions. At such time as the title or

38 deed for property acquired, constructed, improved, extended, repaired, remodeled  
39 or renovated under this section is conveyed to the educational institution, the  
40 consideration shall be returned to the corporation.

41 5. The board may make rental payments to the corporation under such  
42 leases out of its general funds or out of any other available funds, provided that  
43 in no event shall the educational institution become indebted in an amount  
44 exceeding in any year the income and revenue of the educational institution for  
45 such year plus any unencumbered balances from previous years.

46 6. Any bonds, notes and other obligations issued by a corporation to pay  
47 for the acquisition, construction, improvements, extensions, repairs, remodeling  
48 or renovations of sites, buildings and facilities, pursuant to this section, may be  
49 secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities  
50 and a pledge of the revenues received from the rental thereof to the educational  
51 institution. Such bonds, notes and other obligations issued by a corporation shall  
52 not be a debt of the educational institution and the educational institution shall  
53 not be liable thereon, and in no event shall such bonds, notes or other obligations  
54 be payable out of any funds or properties other than those acquired for the  
55 purposes of this section, and such bonds, notes and obligations shall not  
56 constitute an indebtedness of the educational institution within the meaning of  
57 any constitutional or statutory debt limitation or restriction.

58 7. The interest on such bonds, notes and other obligations of the  
59 corporation and the income therefrom shall be exempt from taxation by the state  
60 and its political subdivisions, except for death and gift taxes on transfers. Sites,  
61 buildings, facilities, furnishings and equipment owned by a corporation in  
62 connection with any project pursuant to this section shall be exempt from  
63 taxation.

64 8. The board may make all other contracts or agreements with the  
65 corporation necessary or convenient in connection with any project pursuant to  
66 this section. The corporation shall comply with sections 290.210 to 290.340.

67 9. Notice that the board is considering a project pursuant to this section  
68 shall be given by publication in a newspaper published within the county in  
69 which all or a part of the educational institution is located which has general  
70 circulation within the area of the educational institution, once a week for two  
71 consecutive weeks, the last publication to be at least seven days prior to the date  
72 of the meeting of the board at which such project will be considered and acted  
73 upon.

74           10. Provisions of other law to the contrary notwithstanding, the board  
75 may refinance any lease purchase agreement [that satisfies at least one of the  
76 conditions specified in subsection 6 of section 165.011] for the purpose of payment  
77 on any lease with the corporation under this section for sites, buildings, facilities,  
78 furnishings or equipment which the corporation has acquired or constructed, but  
79 such refinance shall not extend the date of maturity of any obligation, and the  
80 refinancing obligation shall not exceed the amount necessary to pay or provide for  
81 the payment of the principal of the outstanding obligations to be refinanced,  
82 together with the interest accrued thereon to the date of maturity or redemption  
83 of such obligations and any premium which may be due under the terms of such  
84 obligations and any amounts necessary for the payments of costs and expenses  
85 related to issuing such refunding obligations and to fund a capital projects  
86 reserve fund for the obligations.

87           11. Provisions of other law to the contrary notwithstanding, payments  
88 made from any source by a school district, after the latter of July 1, 1994, or July  
89 12, 1994, that result in the transfer of the title of real property to the school  
90 district, other than those payments made from the capital projects fund, shall be  
91 deducted as an adjustment to the funds payable to the district pursuant to section  
92 163.031 beginning in the year following the transfer of title to the district, as  
93 determined by the department of elementary and secondary education. No  
94 district with modular buildings leased in fiscal year 2004, with the lease  
95 payments made from the incidental fund and that initiates the transfer of title  
96 to the district after fiscal year 2007, shall have any adjustment to the funds  
97 payable to the district under section 163.031 as a result of the transfer of title.

98           12. Notwithstanding provisions of this section to the contrary, the board  
99 of education of any school district may enter into agreements with the county in  
100 which the school district is located, or with a city, town, or village wholly or  
101 partially located within the boundaries of the school district, in order to provide  
102 for the acquisition, construction, improvement, extension, repair, remodeling,  
103 renovation, and financing of sites, buildings, facilities, furnishings, and  
104 equipment for the use of the school district for educational purposes. Such an  
105 agreement may provide for the present or future acquisition of an ownership  
106 interest in such facilities by the school district, by lease, lease-purchase  
107 agreement, option to purchase agreement, or similar provisions, and may provide  
108 for a joint venture between the school district and other entity or entities that are  
109 parties to such an agreement providing for the sharing of the costs of acquisition,

110 construction, repair, maintenance, and operation of such facilities. The school  
111 district may wholly own such facilities, or may acquire a partial ownership  
112 interest along with the county, city, town, or village with which the agreement  
113 was executed.

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