

SECOND REGULAR SESSION

HOUSE BILL NO. 1735

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NOLTE (Sponsor) AND SILVEY (Co-sponsor).

Read 1st time January 17, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3560L.01I

AN ACT

To repeal section 177.088, RSMo, and to enact in lieu thereof one new section relating to educational facilities.

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

Section A. Section 177.088, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 177.088, to read as follows:

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

29 4. Any consideration, promissory note or deed of trust which an educational institution
30 receives for selling or leasing property to a not-for-profit corporation pursuant to this section
31 shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon
32 shall be commingled with any other funds of the educational institutions. At such time as the
33 title or deed for property acquired, constructed, improved, extended, repaired, remodeled or
34 renovated under this section is conveyed to the educational institution, the consideration shall
35 be returned to the corporation.

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

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

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

55 8. The board may make all other contracts or agreements with the corporation necessary
56 or convenient in connection with any project pursuant to this section. The corporation shall
57 comply with sections 290.210 to 290.340, RSMo.

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

64 10. Provisions of other law to the contrary notwithstanding, the board may refinance any
65 lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of
66 section 165.011, RSMo, for the purpose of payment on any lease with the corporation under this
67 section for sites, buildings, facilities, furnishings or equipment which the corporation has
68 acquired or constructed, but such refinance shall not extend the date of maturity of any
69 obligation, and the refinancing obligation shall not exceed the amount necessary to pay or
70 provide for the payment of the principal of the outstanding obligations to be refinanced, together
71 with the interest accrued thereon to the date of maturity or redemption of such obligations and
72 any premium which may be due under the terms of such obligations and any amounts necessary
73 for the payments of costs and expenses related to issuing such refunding obligations and to fund
74 a capital projects reserve fund for the obligations.

75 11. Provisions of other law to the contrary notwithstanding, payments made from any
76 source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the
77 transfer of the title of real property to the school district, other than those payments made from
78 the capital projects fund, shall be deducted as an adjustment to the funds payable to the district
79 pursuant to section 163.031, RSMo, beginning in the year following the transfer of title to the
80 district, as determined by the department of elementary and secondary education.

81 **12. Notwithstanding provisions of this section to the contrary, the board of**
82 **education of any school district located within a county of the first classification with more**
83 **than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand**
84 **inhabitants may enter into agreements with such county, or a city, town, or village wholly**
85 **or partially located within the boundaries of such school district, in order to provide for**

86 the acquisition, construction, improvement, extension, repair, remodeling, renovation, and
87 financing of sites, buildings, facilities, furnishings, and equipment for the use of the school
88 district for educational purposes. Such an agreement may provide for the present or
89 future acquisition of an ownership interest in such facilities by the school district, by lease,
90 lease purchase agreement, option to purchase agreement, or similar provisions, and may
91 provide for a joint venture between the school district and other entity or entities that are
92 parties to such an agreement providing for the sharing of the costs of acquisition,
93 construction, repair, maintenance, and operation of such facilities. The school district may
94 wholly own such facilities, or may acquire a partial ownership interest along with the
95 county, city, town, or village with which the agreement was executed. Notwithstanding the
96 provisions of subsection 11 of this section, the school district may expend funds from its
97 general or incidental funds to satisfy its obligations for rent, lease payments, construction,
98 improvements, maintenance, repairs, and operation of such facilities, and may acquire an
99 ownership interest in such facilities, without being subject to the deductions from funds
100 payable to the district under section 163.031, RSMo.

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