

FIRST REGULAR SESSION

# HOUSE BILL NO. 783

## 97TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE DIEHL.

2010L.011

D. ADAM CRUMBLISS, Chief Clerk

---

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Section A. Sections 177.011 and 177.088, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 177.011 and 177.088, to read as follows:

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

2. Notwithstanding the provisions of section 178.770, the provisions of this section shall not apply to community college districts. Nothing in this subsection shall be construed to impair the duty and authority of the coordinating 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 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.

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

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

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

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

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

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] **twenty years** but with not more than [twenty-five] **five** successive  
23 options by the educational institution to renew the lease [under the same conditions] **for one**  
24 **year**; and provided further that the corporation agrees to convey or sell the sites, buildings or  
25 facilities, including any improvements, extensions, renovations, furnishings or equipment, back  
26 to the educational institution with clear title at the end of the [period of successive one-year  
27 options] **lease** or at any time bonds, notes or other obligations issued by the corporation to pay  
28 for the improvements, extensions, renovations, furnishings or equipment have been paid and  
29 discharged.

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

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

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

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

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

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

65           10. Provisions of other law to the contrary notwithstanding, the board may refinance any  
66 lease purchase agreement [that satisfies at least one of the conditions specified in subsection 6  
67 of section 165.011] for the purpose of payment on any lease with the corporation under this  
68 section for sites, buildings, facilities, furnishings or equipment which the corporation has  
69 acquired or constructed, but such refinance shall not extend the date of maturity of any  
70 obligation, and the refinancing obligation shall not exceed the amount necessary to pay or  
71 provide for the payment of the principal of the outstanding obligations to be refinanced, together  
72 with the interest accrued thereon to the date of maturity or redemption of such obligations and

73 any premium which may be due under the terms of such obligations and any amounts necessary  
74 for the payments of costs and expenses related to issuing such refunding obligations and to fund  
75 a capital projects reserve fund for the obligations.

76 11. Provisions of other law to the contrary notwithstanding, payments made from any  
77 source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the  
78 transfer of the title of real property to the school district, other than those payments made from  
79 the capital projects fund, shall be deducted as an adjustment to the funds payable to the district  
80 pursuant to section 163.031 beginning in the year following the transfer of title to the district,  
81 as determined by the department of elementary and secondary education. No district with  
82 modular buildings leased in fiscal year 2004, with the lease payments made from the incidental  
83 fund and that initiates the transfer of title to the district after fiscal year 2007, shall have any  
84 adjustment to the funds payable to the district under section 163.031 as a result of the transfer  
85 of title.

86 12. Notwithstanding provisions of this section to the contrary, the board of education of  
87 any school district may enter into agreements with the county in which the school district is  
88 located, or with a city, town, or village wholly or partially located within the boundaries of the  
89 school district, in order to provide for the acquisition, construction, improvement, extension,  
90 repair, remodeling, renovation, and financing of sites, buildings, facilities, furnishings, and  
91 equipment for the use of the school district for educational purposes. Such an agreement may  
92 provide for the present or future acquisition of an ownership interest in such facilities by the  
93 school district, by lease, lease-purchase agreement, option to purchase agreement, or similar  
94 provisions, and may provide for a joint venture between the school district and other entity or  
95 entities that are parties to such an agreement providing for the sharing of the costs of acquisition,  
96 construction, repair, maintenance, and operation of such facilities. The school district may  
97 wholly own such facilities, or may acquire a partial ownership interest along with the county,  
98 city, town, or village with which the agreement was executed.

✓