

By the Committee on Governmental Reform and Oversight and
Senators Burt and Campbell

302-2143-98

1 A bill to be entitled
2 An act relating to educational facilities;
3 amending s. 235.04, F.S.; allowing a school
4 board to sell and lease back an educational
5 plant for the purposes of repair, remodeling,
6 and site improvement; amending s. 235.056,
7 F.S.; authorizing boards to rent or lease
8 certain buildings or space within buildings for
9 conversion to use as educational facilities;
10 providing for funding; requiring school board
11 adoption of a resolution certifying that
12 specified conditions have been met; amending s.
13 201.24, F.S., relating to exemption from excise
14 tax on documents; conforming provisions;
15 amending s. 236.25, F.S., relating to school
16 district tax for capital outlay; conforming
17 provisions; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:
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21 Section 1. Subsection (1) of section 235.04, Florida
22 Statutes, is amended to read:

23 235.04 Disposal of property.--

24 (1)(a) REAL PROPERTY.--Subject to rules of the
25 Commissioner of Education, a board may dispose of any land or
26 real property that is, by resolution of the board, determined
27 to be unnecessary for educational purposes as recommended in
28 an educational plant survey. A board shall take diligent
29 measures to dispose of educational property only in the best
30 interests of the public. However, appraisals may be obtained

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1 by the board prior to or simultaneously with the receipt of
2 bids.

3 (b) An educational plant as defined in s. 235.011(6)
4 which is included in the 5-year district facilities work
5 program under s. 235.185(2)(a)1., may be sold by resolution of
6 the board at appraised fair market value to Florida private or
7 not-for-profit corporations solely for the purpose of
8 effecting renovations, remodeling, and site improvements, as
9 defined in s. 235.011, of such facilities, provided that such
10 educational plants shall be leased back to such boards
11 pursuant to s. 235.056.

12 Section 2. Paragraph (b) of subsection (2) of section
13 235.056, Florida Statutes, as amended by chapter 97-384, Laws
14 of Florida, is amended and subsection (3) is added to that
15 section to read:

16 235.056 Lease, rental, and lease-purchase of
17 educational facilities and sites.--

18 (2)

19 (b) A board is authorized to lease-purchase
20 educational facilities and sites as defined in s. 235.011.
21 The lease-purchase of educational facilities and sites shall
22 be as required by s. 235.26, be advertised for and receive
23 competitive proposals and be awarded to the best proposer, and
24 be funded using current or other funds specifically authorized
25 by law to be used for such purpose.

26 1. A district school board, by itself, or through a
27 direct-support organization formed pursuant to s. 237.40 or
28 nonprofit educational organization or a consortium of district
29 school boards, may, in developing a lease-purchase of
30 educational facilities and sites provide for separately
31 advertising for and receiving competitive bids or proposals on

1 the construction, renovation, remodeling, or site improvement
2 of facilities and educational plants, including those disposed
3 of in accordance with s. 235.04(1)(b), and the selection of
4 financing to provide the lowest cost funding available, so
5 long as the board determines that such process would best
6 serve the public interest and the pledged revenues are limited
7 to those authorized in s. 236.25(2)(e).

8 2. All activities and information, including lists of
9 individual participants, associated with agreements made
10 pursuant to this section shall be subject to the provisions of
11 chapter 119 and s. 286.011.

12 (3)(a) A board may rent or lease existing buildings,
13 or space within existing buildings, originally constructed or
14 used for purposes other than education, for conversion to use
15 as educational facilities. Such buildings rented or leased for
16 1 year or less shall be funded through the operations budget
17 or funds derived from millage pursuant to s. 236.25(2). A
18 rental agreement or lease contract for 1 year or less, when
19 extended or renewed beyond a year, becomes a multiple-year
20 rental or lease. Operational funds or funds derived from
21 millage proceeds pursuant to s. 236.25(2) may be authorized to
22 be expended for multiple-year rentals or leases.

23 Notwithstanding any other provisions of this section, if a
24 building was constructed in conformance with all applicable
25 building and life safety codes, it shall be deemed to meet the
26 requirements for use and occupancy as an educational facility
27 subject only to the provisions of this subsection.

28 (b) Prior to occupying a rented or a leased existing
29 building, or space within an existing building, pursuant to
30 this subsection, a school board shall, in a public meeting,
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1 adopt a resolution certifying that the following circumstances
2 apply to the building proposed for occupancy:

3 1. Growth among the school-age population in the
4 school district has created a need for new educational
5 facilities in a neighborhood where there is little or no
6 vacant land.

7 2. There exists a supply of vacant space in existing
8 buildings that meet state minimum building and life safety
9 codes.

10 3. Acquisition and conversion to use as educational
11 facilities of an existing building or buildings is a
12 cost-saving means of providing the needed classroom space as
13 determined by the difference between the cost of new
14 construction, including land acquisition and preparation and,
15 if applicable, demolition of existing structures, and the cost
16 of acquisition through rental or lease and conversion of an
17 existing building or buildings.

18 4. The building has been examined for suitability,
19 safety, and conformance with state minimum building and life
20 safety codes. The building examination shall consist, at a
21 minimum, of a review of existing documents, building site
22 reconnaissance, and analysis of the building conducted by, or
23 under the responsible charge of, a licensed structural
24 engineer.

25 5. A certificate of evaluation has been issued by the
26 structural engineer which states that, based on available
27 documents, building site reconnaissance, current knowledge,
28 and engineering judgment in the engineer's professional
29 opinion, the building meets the requirements of state minimum
30 building and life safety codes, provides safe egress of
31 occupants from the building, provides adequate fire safety,

1 and does not pose a substantial threat to life to persons who
2 would occupy the building for classroom use.

3 6. The plans for conversion of the building were
4 prepared by an architect or structural engineer licensed in
5 this state, and the work of conversion was performed by
6 contractors licensed in this state.

7 7. The conversion of the building was observed by an
8 architect or structural engineer licensed in this state.

9 8. The building has been reviewed, inspected, and
10 granted a certificate of occupancy by the local building
11 department.

12 9. All ceilings, light fixtures, ducts, and registers
13 within the area to be occupied for classroom purposes were
14 constructed or have been reconstructed to meet state minimum
15 requirements.

16 Section 3. Subsection (2) of section 201.24, Florida
17 Statutes, is amended to read:

18 201.24 Obligations of municipalities, political
19 subdivisions, and agencies of the state.--There shall be
20 exempt from all taxes imposed by this chapter:

21 (2) Any assignment, transfer, or other disposition, or
22 any document, which arises out of a rental, lease, or
23 lease-purchase for real property agreement entered pursuant to
24 s. 235.056(2) or (3).

25 Section 4. Paragraph (h) of subsection (2) and
26 subsection (5) of section 236.25, Florida Statutes, as amended
27 by chapter 97-384, Laws of Florida, are amended to read:

28 236.25 District school tax.--

29 (2) In addition to the maximum millage levy as
30 provided in subsection (1), each school board may levy not
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1 more than 2 mills against the taxable value for school
2 purposes to fund:

3 (h) Payment of costs of leasing relocatable
4 educational facilities,~~and~~ of renting or leasing educational
5 facilities and sites pursuant to s. 235.056(2), or of renting
6 or leasing buildings or space within existing buildings
7 pursuant to s. 235.056(3).

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9 Violations of these expenditure provisions shall result in an
10 equal dollar reduction in the Florida Education Finance
11 Program (FEFP) funds for the violating district in the fiscal
12 year following the audit citation.

13 (5)(a) It is the intent of the Legislature that, by
14 July 1, 2003, revenue generated by the millage levy authorized
15 by subsection (2) should be used only for the costs of
16 construction, renovation, remodeling, maintenance, and repair
17 of the educational plant; for the purchase, lease, or
18 lease-purchase of equipment, educational plants, and
19 construction materials directly related to the delivery of
20 student instruction; for the rental or lease of existing
21 buildings, or space within existing buildings, originally
22 constructed or used for purposes other than education, for
23 conversion to use as educational facilities;for the opening
24 day collection for the library media center of a new school;
25 for the purchase, lease-purchase, or lease of school buses;
26 and for servicing of payments related to certificates of
27 participation issued for any purpose prior to the effective
28 date of this act. Costs associated with the lease-purchase of
29 equipment, educational plants, and school buses may include
30 the issuance of certificates of participation on or after the
31 effective date of this act and the servicing of payments

1 related to certificates so issued. For purposes of this
2 section, "maintenance and repair" is defined in s. 235.011.

3 (b) For purposes not delineated in paragraph (a) for
4 which proceeds received from millage levied under subsection
5 (2) may be legally expended, a district school board may spend
6 no more than the following percentages of the amount the
7 district spent for these purposes in fiscal year 1995-1996:

- 8 1. In fiscal year 1997-1998, 85 percent.
- 9 2. In fiscal year 1998-1999, 70 percent.
- 10 3. In fiscal year 1999-2000, 55 percent.
- 11 4. In fiscal year 2000-2001, 40 percent.
- 12 5. In fiscal year 2001-2002, 25 percent.
- 13 6. In fiscal year 2002-2003, 10 percent.

14 (c) Beginning July 1, 2003, revenue generated by the
15 millage levy authorized by subsection (2) must be used only
16 for the purposes delineated in paragraph (a).

17 (d) Notwithstanding any other provision of this
18 subsection, if through its adopted facilities work program a
19 district has clearly identified the need for an ancillary
20 plant, has provided opportunity for public input as to the
21 relative value of the ancillary plant versus an educational
22 plant, and has obtained public approval, the district may use
23 revenue generated by the millage levy authorized by subsection
24 (2) for the construction, renovation, remodeling, maintenance,
25 or repair of an ancillary plant.

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27 A district that violates these expenditure restrictions shall
28 have an equal dollar reduction in funds appropriated to the
29 district under s. 236.081 in the fiscal year following the
30 audit citation. The expenditure restrictions do not apply to
31 any school district that certifies to the Commissioner of

1 Education that all of the district's instructional space needs
2 for the next 5 years can be met from capital outlay sources
3 that the district reasonably expects to receive during the
4 next 5 years or from alternative scheduling or construction,
5 leasing, rezoning, or technological methodologies that exhibit
6 sound management.

7 Section 5. This act shall take effect July 1, 1998.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 1664

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12 The committee substitute will allow the school board, by
13 resolution, to sell and lease back educational facilities to
14 either a private or not-for-profit corporation for purposes of
repairing, remodeling, and providing site improvements.

15 The school board is authorized to accept competitive bids and
16 proposals for the renovation, remodeling and/or site
improvement of educational facilities.

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