

**As Reported by the House Education Committee**

**129th General Assembly**

**Regular Session**

**2011-2012**

**H. B. No. 375**

**Representative Butler**

**Cosponsors: Representatives Stebelton, Rosenberger, Henne, Gonzales,  
Uecker, Reece, Adams, J., Terhar, Thompson**

**—**

**A B I L L**

To amend section 3313.41 of the Revised Code to allow 1  
school districts to sell real property to private, 2  
nonprofit institutions of higher education. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3313.41 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 3313.41.** (A) Except as provided in divisions (C), (D), 6  
(F), and (G) of this section, when a board of education decides to 7  
dispose of real or personal property that it owns in its corporate 8  
capacity and that exceeds in value ten thousand dollars, it shall 9  
sell the property at public auction, after giving at least thirty 10  
days' notice of the auction by publication in a newspaper of 11  
general circulation in the school district, by publication as 12  
provided in section 7.16 of the Revised Code, or by posting 13  
notices in five of the most public places in the school district 14  
in which the property, if it is real property, is situated, or, if 15  
it is personal property, in the school district of the board of 16  
education that owns the property. The board may offer real 17  
property for sale as an entire tract or in parcels. 18

(B) When the board of education has offered real or personal property for sale at public auction at least once pursuant to division (A) of this section, and the property has not been sold, the board may sell it at a private sale. Regardless of how it was offered at public auction, at a private sale, the board shall, as it considers best, sell real property as an entire tract or in parcels, and personal property in a single lot or in several lots.

(C) If a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it may sell the property to the adjutant general; to any subdivision or taxing authority as respectively defined in ~~divisions (A) and (C) of~~ section 5705.01 of the Revised Code, township park district, board of park commissioners established under Chapter 755. of the Revised Code, or park district established under Chapter 1545. of the Revised Code; to a wholly or partially tax-supported university, university branch, or college; to a nonprofit institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code; or to the board of trustees of a school district library, upon such terms as are agreed upon. The sale of real or personal property to the board of trustees of a school district library is limited, in the case of real property, to a school district library within whose boundaries the real property is situated, or, in the case of personal property, to a school district library whose boundaries lie in whole or in part within the school district of the selling board of education.

(D) When a board of education decides to trade as a part or an entire consideration, an item of personal property on the purchase price of an item of similar personal property, it may trade the same upon such terms as are agreed upon by the parties to the trade.

(E) The president and the treasurer of the board of education

shall execute and deliver deeds or other necessary instruments of 51  
conveyance to complete any sale or trade under this section. 52

(F) When a board of education has identified a parcel of real 53  
property that it determines is needed for school purposes, the 54  
board may, upon a majority vote of the members of the board, 55  
acquire that property by exchanging real property that the board 56  
owns in its corporate capacity for the identified real property or 57  
by using real property that the board owns in its corporate 58  
capacity as part or an entire consideration for the purchase price 59  
of the identified real property. Any exchange or acquisition made 60  
pursuant to this division shall be made by a conveyance executed 61  
by the president and the treasurer of the board. 62

(G) When a school district board of education decides to 63  
dispose of real property, prior to disposing of that property 64  
under divisions (A) to (F) of this section, it shall first offer 65  
that property for sale to the governing authorities of the 66  
start-up community schools established under Chapter 3314. of the 67  
Revised Code located within the territory of the school district, 68  
at a price that is not higher than the appraised fair market value 69  
of that property. If more than one community school governing 70  
authority accepts the offer made by the school district board, the 71  
board shall sell the property to the governing authority that 72  
accepted the offer first in time. If no community school governing 73  
authority accepts the offer within sixty days after the offer is 74  
made by the school district board, the board may dispose of the 75  
property in the applicable manner prescribed under divisions (A) 76  
to (F) of this section. 77

(H) When a school district board of education has property 78  
that the board, by resolution, finds is not needed for school 79  
district use, is obsolete, or is unfit for the use for which it 80  
was acquired, the board may donate that property in accordance 81  
with this division if the fair market value of the property is, in 82

the opinion of the board, two thousand five hundred dollars or 83  
less. 84

The property may be donated to an eligible nonprofit 85  
organization that is located in this state and is exempt from 86  
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 87  
Before donating any property under this division, the board shall 88  
adopt a resolution expressing its intent to make unneeded, 89  
obsolete, or unfit-for-use school district property available to 90  
these organizations. The resolution shall include guidelines and 91  
procedures the board considers to be necessary to implement the 92  
donation program and shall indicate whether the school district 93  
will conduct the donation program or the board will contract with 94  
a representative to conduct it. If a representative is known when 95  
the resolution is adopted, the resolution shall provide contact 96  
information such as the representative's name, address, and 97  
telephone number. 98

The resolution shall include within its procedures a 99  
requirement that any nonprofit organization desiring to obtain 100  
donated property under this division shall submit a written notice 101  
to the board or its representative. The written notice shall 102  
include evidence that the organization is a nonprofit organization 103  
that is located in this state and is exempt from federal income 104  
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 105  
the organization's primary purpose; a description of the type or 106  
types of property the organization needs; and the name, address, 107  
and telephone number of a person designated by the organization's 108  
governing board to receive donated property and to serve as its 109  
agent. 110

After adoption of the resolution, the board shall publish, in 111  
a newspaper of general circulation in the school district or as 112  
provided in section 7.16 of the Revised Code, notice of its intent 113  
to donate unneeded, obsolete, or unfit-for-use school district 114

property to eligible nonprofit organizations. The notice shall 115  
include a summary of the information provided in the resolution 116  
and shall be published twice. The second notice shall be published 117  
not less than ten nor more than twenty days after the previous 118  
notice. A similar notice also shall be posted continually in the 119  
board's office. If the school district maintains a web site on the 120  
internet, the notice shall be posted continually at that web site. 121

The board or its representatives shall maintain a list of all 122  
nonprofit organizations that notify the board or its 123  
representative of their desire to obtain donated property under 124  
this division and that the board or its representative determines 125  
to be eligible, in accordance with the requirements set forth in 126  
this section and in the donation program's guidelines and 127  
procedures, to receive donated property. 128

The board or its representative also shall maintain a list of 129  
all school district property the board finds to be unneeded, 130  
obsolete, or unfit for use and to be available for donation under 131  
this division. The list shall be posted continually in a 132  
conspicuous location in the board's office, and, if the school 133  
district maintains a web site on the internet, the list shall be 134  
posted continually at that web site. An item of property on the 135  
list shall be donated to the eligible nonprofit organization that 136  
first declares to the board or its representative its desire to 137  
obtain the item unless the board previously has established, by 138  
resolution, a list of eligible nonprofit organizations that shall 139  
be given priority with respect to the item's donation. Priority 140  
may be given on the basis that the purposes of a nonprofit 141  
organization have a direct relationship to specific school 142  
district purposes of programs provided or administered by the 143  
board. A resolution giving priority to certain nonprofit 144  
organizations with respect to the donation of an item of property 145  
shall specify the reasons why the organizations are given that 146

priority. 147

Members of the board shall consult with the Ohio ethics 148  
commission, and comply with Chapters 102. and 2921. of the Revised 149  
Code, with respect to any donation under this division to a 150  
nonprofit organization of which a board member, any member of a 151  
board member's family, or any business associate of a board member 152  
is a trustee, officer, board member, or employee. 153

**Section 2.** That existing section 3313.41 of the Revised Code 154  
is hereby repealed. 155