

As Reported by the Senate 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, Blessing, Hill, Huffman, Lynch,
Martin, Ramos, Roegner Speaker Batchelder**

—

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 19
property for sale at public auction at least once pursuant to 20
division (A) of this section, and the property has not been sold, 21
the board may sell it at a private sale. Regardless of how it was 22
offered at public auction, at a private sale, the board shall, as 23
it considers best, sell real property as an entire tract or in 24
parcels, and personal property in a single lot or in several lots. 25

(C) If a board of education decides to dispose of real or 26
personal property that it owns in its corporate capacity and that 27
exceeds in value ten thousand dollars, it may sell the property to 28
the adjutant general; to any subdivision or taxing authority as 29
respectively defined in ~~divisions (A) and (C) of~~ section 5705.01 30
of the Revised Code, township park district, board of park 31
commissioners established under Chapter 755. of the Revised Code, 32
or park district established under Chapter 1545. of the Revised 33
Code; to a wholly or partially tax-supported university, 34
university branch, or college; to a nonprofit institution of 35
higher education that has a certificate of authorization under 36
Chapter 1713. of the Revised Code; or to the board of trustees of 37
a school district library, upon such terms as are agreed upon. The 38
sale of real or personal property to the board of trustees of a 39
school district library is limited, in the case of real property, 40
to a school district library within whose boundaries the real 41
property is situated, or, in the case of personal property, to a 42
school district library whose boundaries lie in whole or in part 43
within the school district of the selling board of education. 44

(D) When a board of education decides to trade as a part or 45
an entire consideration, an item of personal property on the 46
purchase price of an item of similar personal property, it may 47
trade the same upon such terms as are agreed upon by the parties 48
to the trade. 49

(E) The president and the treasurer of the board of education 50
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