

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 43

Representative Ingram

**Cosponsors: Representatives Jones, Kelly, Lang, Miller, J., Miranda, Patterson,
Riedel, Rogers, Skindell, Sobecki**

A BILL

To amend sections 3313.41, 3318.08, and 5705.10, to 1
enact new section 3313.411, and to repeal 2
sections 3313.411, 3313.412, and 3313.413 of the 3
Revised Code to eliminate the right of first 4
refusal for certain schools in the acquisition 5
of school district real property. 6

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

Section 1. That sections 3313.41, 3318.08, and 5705.10 of 7
the Revised Code be amended and new section 3313.411 be enacted 8
to read as follows: 9

Sec. 3313.41. (A) ~~Except as provided in divisions (C),~~ 10
~~(D), and (F) of this section and in sections 3313.412 and~~ 11
~~3313.413 of the Revised Code, when~~ When a board of education 12
decides to dispose of real or personal property that it owns in 13
its corporate capacity and that exceeds in value ten thousand 14
dollars, it shall sell the property at public auction, after 15
giving at least thirty days' notice of the auction by 16
publication in a newspaper of general circulation in the school 17
district, by publication as provided in section 7.16 of the 18

Revised Code, or by posting notices in five of the most public 19
places in the school district in which the property, if it is 20
real property, is situated, or, if it is personal property, in 21
the school district of the board of education that owns the 22
property. The board may offer real property for sale as an 23
entire tract or in parcels. 24

(B) When the board of education has offered real or 25
personal property for sale at public auction at least once 26
pursuant to division (A) of this section, and the property has 27
not been sold, the board may sell it at a private sale. 28
Regardless of how it was offered at public auction, at a private 29
sale, the board shall, as it considers best, sell real property 30
as an entire tract or in parcels, and personal property in a 31
single lot or in several lots. 32

(C) If a board of education decides to dispose of real or 33
personal property that it owns in its corporate capacity and 34
that exceeds in value ten thousand dollars, it may sell the 35
property to the adjutant general; to any subdivision or taxing 36
authority as respectively defined in section 5705.01 of the 37
Revised Code, township park district, board of park 38
commissioners established under Chapter 755. of the Revised 39
Code, or park district established under Chapter 1545. of the 40
Revised Code; to a wholly or partially tax-supported university, 41
university branch, or college; to a nonprofit institution of 42
higher education that has a certificate of authorization under 43
Chapter 1713. of the Revised Code; to the governing authority of 44
a chartered nonpublic school; or to the board of trustees of a 45
school district library, upon such terms as are agreed upon. The 46
sale of real or personal property to the board of trustees of a 47
school district library is limited, in the case of real 48
property, to a school district library within whose boundaries 49

the real property is situated, or, in the case of personal 50
property, to a school district library whose boundaries lie in 51
whole or in part within the school district of the selling board 52
of education. 53

(D) When a board of education decides to trade as a part 54
or an entire consideration, an item of personal property on the 55
purchase price of an item of similar personal property, it may 56
trade the same upon such terms as are agreed upon by the parties 57
to the trade. 58

(E) The president and the treasurer of the board of 59
education shall execute and deliver deeds or other necessary 60
instruments of conveyance to complete any sale or trade under 61
this section. 62

(F) When a board of education has identified a parcel of 63
real property that it determines is needed for school purposes, 64
the board may, upon a majority vote of the members of the board, 65
acquire that property by exchanging real property that the board 66
owns in its corporate capacity for the identified real property 67
or by using real property that the board owns in its corporate 68
capacity as part or an entire consideration for the purchase 69
price of the identified real property. Any exchange or 70
acquisition made pursuant to this division shall be made by a 71
conveyance executed by the president and the treasurer of the 72
board. 73

(G) When a school district board of education has property 74
that the board, by resolution, finds is not needed for school 75
district use, is obsolete, or is unfit for the use for which it 76
was acquired, the board may donate that property in accordance 77
with this division if the fair market value of the property is, 78
in the opinion of the board, two thousand five hundred dollars 79

or less. 80

The property may be donated to an eligible nonprofit 81
organization that is located in this state and is exempt from 82
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 83
Before donating any property under this division, the board 84
shall adopt a resolution expressing its intent to make unneeded, 85
obsolete, or unfit-for-use school district property available to 86
these organizations. The resolution shall include guidelines and 87
procedures the board considers to be necessary to implement the 88
donation program and shall indicate whether the school district 89
will conduct the donation program or the board will contract 90
with a representative to conduct it. If a representative is 91
known when the resolution is adopted, the resolution shall 92
provide contact information such as the representative's name, 93
address, and telephone number. 94

The resolution shall include within its procedures a 95
requirement that any nonprofit organization desiring to obtain 96
donated property under this division shall submit a written 97
notice to the board or its representative. The written notice 98
shall include evidence that the organization is a nonprofit 99
organization that is located in this state and is exempt from 100
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); 101
a description of the organization's primary purpose; a 102
description of the type or types of property the organization 103
needs; and the name, address, and telephone number of a person 104
designated by the organization's governing board to receive 105
donated property and to serve as its agent. 106

After adoption of the resolution, the board shall publish, 107
in a newspaper of general circulation in the school district or 108
as provided in section 7.16 of the Revised Code, notice of its 109

intent to donate unneeded, obsolete, or unfit-for-use school 110
district property to eligible nonprofit organizations. The 111
notice shall include a summary of the information provided in 112
the resolution and shall be published twice. The second notice 113
shall be published not less than ten nor more than twenty days 114
after the previous notice. A similar notice also shall be posted 115
continually in the board's office. If the school district 116
maintains a web site on the internet, the notice shall be posted 117
continually at that web site. 118

The board or its representatives shall maintain a list of 119
all nonprofit organizations that notify the board or its 120
representative of their desire to obtain donated property under 121
this division and that the board or its representative 122
determines to be eligible, in accordance with the requirements 123
set forth in this section and in the donation program's 124
guidelines and procedures, to receive donated property. 125

The board or its representative also shall maintain a list 126
of all school district property the board finds to be unneeded, 127
obsolete, or unfit for use and to be available for donation 128
under this division. The list shall be posted continually in a 129
conspicuous location in the board's office, and, if the school 130
district maintains a web site on the internet, the list shall be 131
posted continually at that web site. An item of property on the 132
list shall be donated to the eligible nonprofit organization 133
that first declares to the board or its representative its 134
desire to obtain the item unless the board previously has 135
established, by resolution, a list of eligible nonprofit 136
organizations that shall be given priority with respect to the 137
item's donation. Priority may be given on the basis that the 138
purposes of a nonprofit organization have a direct relationship 139
to specific school district purposes of programs provided or 140

administered by the board. A resolution giving priority to 141
certain nonprofit organizations with respect to the donation of 142
an item of property shall specify the reasons why the 143
organizations are given that priority. 144

Members of the board shall consult with the Ohio ethics 145
commission, and comply with Chapters 102. and 2921. of the 146
Revised Code, with respect to any donation under this division 147
to a nonprofit organization of which a board member, any member 148
of a board member's family, or any business associate of a board 149
member is a trustee, officer, board member, or employee. 150

Sec. 3313.411. (A) Except as provided in division (B) of 151
this section, the governing authority of a community school, the 152
board of trustees of a college-preparatory boarding school, or 153
the governing body of a STEM school shall not sell any property 154
purchased under division (B) of section 3313.411 of the Revised 155
Code as it existed prior to the effective date of this section 156
within five years of purchasing that property. 157

(B) The governing authority, board of trustees, or 158
governing body may sell a property purchased under division (B) 159
of section 3313.411 of the Revised Code as it existed prior to 160
the effective date of this section within five years of the 161
purchase, only if the governing authority, board of trustees, or 162
governing body sells or transfers that property to another 163
governing authority, board of trustees, or governing body. 164

Sec. 3318.08. Except in the case of a joint vocational 165
school district that receives assistance under sections 3318.40 166
to 3318.45 of the Revised Code, if the requisite favorable vote 167
on the election is obtained, or if the school district board has 168
resolved to apply the proceeds of a property tax levy or the 169
proceeds of an income tax, or a combination of proceeds from 170

such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio facilities construction commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of

the controlling board's approval to within five thousand dollars 202
of the required level of indebtedness for the preceding year. In 203
the event that a first installment of bond anticipation notes is 204
issued, the school district board shall, as soon as practicable 205
after the county treasurer of each county in which the school 206
district is located has commenced the collection of taxes on the 207
general duplicate of real and public utility property for the 208
year in which the controlling board approved the project, 209
authorize the issuance of a second and final installment of bond 210
anticipation notes or a first and final issue of bonds. 211

The combined value of the first and second installment of 212
bond anticipation notes or the value of the first and final 213
issue of bonds shall be equal to the school district's portion 214
of the basic project cost. The proceeds of any such bonds shall 215
be used first to retire any bond anticipation notes. Otherwise, 216
the proceeds of such bonds and of any bond anticipation notes, 217
except the premium and accrued interest thereon, shall be 218
deposited in the school district's project construction fund. In 219
determining the amount of net bonded indebtedness for the 220
purpose of fixing the amount of an issue of either bonds or bond 221
anticipation notes, gross indebtedness shall be reduced by 222
moneys in the bond retirement fund only to the extent of the 223
moneys therein on the first day of the year preceding the year 224
in which the controlling board approved the project. Should 225
there be a decrease in the tax valuation of the school district 226
so that the amount of indebtedness that can be incurred on the 227
tax duplicates for the year in which the controlling board 228
approved the project is less than the amount of the first 229
installment of bond anticipation notes, there shall be paid from 230
the school district's project construction fund to the school 231
district's bond retirement fund to be applied against such notes 232

an amount sufficient to cause the net bonded indebtedness of the 233
school district, as of the first day of the year following the 234
year in which the controlling board approved the project, to be 235
within five thousand dollars of the required level of 236
indebtedness for the year in which the controlling board 237
approved the project. The maximum amount of indebtedness to be 238
incurred by any school district board as its share of the cost 239
of the project is either an amount that will cause its net 240
bonded indebtedness, as of the first day of the year following 241
the year in which the controlling board approved the project, to 242
be within five thousand dollars of the required level of 243
indebtedness, or an amount equal to the required percentage of 244
the basic project costs, whichever is greater. All bonds and 245
bond anticipation notes shall be issued in accordance with 246
Chapter 133. of the Revised Code, and notes may be renewed as 247
provided in section 133.22 of the Revised Code. 248

(B) The transfer of such funds of the school district 249
board available for the project, together with the proceeds of 250
the sale of the bonds or notes, except premium, accrued 251
interest, and interest included in the amount of the issue, to 252
the school district's project construction fund; 253

(C) For all school districts except joint vocational 254
school districts that receive assistance under sections 3318.40 255
to 3318.45 of the Revised Code, the following provisions as 256
applicable: 257

(1) If section 3318.052 of the Revised Code applies, the 258
earmarking of the proceeds of a tax levied under section 5705.21 259
of the Revised Code for general permanent improvements or under 260
section 5705.218 of the Revised Code for the purpose of 261
permanent improvements, or the proceeds of a school district 262

income tax levied under Chapter 5748. of the Revised Code, or 263
the proceeds from a combination of those two taxes, in an amount 264
to pay all or part of the service charges on bonds issued to pay 265
the school district portion of the project and an amount 266
equivalent to all or part of the tax required under division (B) 267
of section 3318.05 of the Revised Code; 268

(2) If section 3318.052 of the Revised Code does not 269
apply, one of the following: 270

(a) The levy of the tax authorized at the election for the 271
payment of maintenance costs, as specified in division (B) of 272
section 3318.05 of the Revised Code; 273

(b) If the school district electors have approved a 274
continuing tax for general permanent improvements under section 275
5705.21 of the Revised Code and that tax can be used for 276
maintenance, the earmarking of an amount of the proceeds from 277
such tax for maintenance of classroom facilities as specified in 278
division (B) of section 3318.05 of the Revised Code; 279

(c) If, in lieu of the tax otherwise required under 280
division (B) of section 3318.05 of the Revised Code, the 281
commission has approved the transfer of money to the maintenance 282
fund in accordance with section 3318.051 of the Revised Code, a 283
requirement that the district board comply with the provisions 284
of that section. The district board may rescind the provision 285
prescribed under division (C) (2) (c) of this section only so long 286
as the electors of the district have approved, in accordance 287
with section 3318.063 of the Revised Code, the levy of a tax for 288
the maintenance of the classroom facilities acquired under the 289
district's project and that levy continues to be collected as 290
approved by the electors. 291

(D) For joint vocational school districts that receive	292
assistance under sections 3318.40 to 3318.45 of the Revised	293
Code, provision for deposit of school district moneys dedicated	294
to maintenance of the classroom facilities acquired under those	295
sections as prescribed in section 3318.43 of the Revised Code;	296
(E) Dedication of any local donated contribution as	297
provided for under section 3318.084 of the Revised Code,	298
including a schedule for depositing such moneys applied as an	299
offset of the district's obligation to levy the tax described in	300
division (B) of section 3318.05 of the Revised Code as required	301
under division (D) (2) of section 3318.084 of the Revised Code;	302
(F) Ownership of or interest in the project during the	303
period of construction, which shall be divided between the	304
commission and the school district board in proportion to their	305
respective contributions to the school district's project	306
construction fund;	307
(G) Maintenance of the state's interest in the project	308
until any obligations issued for the project under section	309
3318.26 of the Revised Code are no longer outstanding;	310
(H) The insurance of the project by the school district	311
from the time there is an insurable interest therein and so long	312
as the state retains any ownership or interest in the project	313
pursuant to division (F) of this section, in such amounts and	314
against such risks as the commission shall require; provided,	315
that the cost of any required insurance until the project is	316
completed shall be a part of the basic project cost;	317
(I) The certification by the director of budget and	318
management that funds are available and have been set aside to	319
meet the state's share of the basic project cost as approved by	320

the controlling board pursuant to either section 3318.04 or 321
division (B) (1) of section 3318.41 of the Revised Code; 322

(J) Authorization of the school district board to 323
advertise for and receive construction bids for the project, for 324
and on behalf of the commission, and to award contracts in the 325
name of the state subject to approval by the commission; 326

(K) Provisions for the disbursement of moneys from the 327
school district's project account upon issuance by the 328
commission or the commission's designated representative of 329
vouchers for work done to be certified to the commission by the 330
treasurer of the school district board; 331

(L) Disposal of any balance left in the school district's 332
project construction fund upon completion of the project; 333

(M) Limitations upon use of the project or any part of it 334
so long as any obligations issued to finance the project under 335
section 3318.26 of the Revised Code are outstanding; 336

(N) Provision for vesting the state's interest in the 337
project to the school district board when the obligations issued 338
to finance the project under section 3318.26 of the Revised Code 339
are outstanding; 340

(O) Provision for deposit of an executed copy of the 341
agreement in the office of the commission; 342

(P) Provision for termination of the contract and release 343
of the funds encumbered at the time of the conditional approval, 344
if the proceeds of the sale of the bonds of the school district 345
board are not paid into the school district's project 346
construction fund and if bids for the construction of the 347
project have not been taken within such period after the 348
execution of the agreement as may be fixed by the commission; 349

(Q) Provision for the school district to maintain the 350
project in accordance with a plan approved by the commission; 351

(R) Provision that all state funds reserved and encumbered 352
to pay the state share of the cost of the project and the funds 353
provided by the school district to pay for its share of the 354
project cost, including the respective shares of the cost of a 355
segment if the project is divided into segments, be spent on the 356
construction and acquisition of the project or segment 357
simultaneously in proportion to the state's and the school 358
district's respective shares of that basic project cost as 359
determined under section 3318.032 of the Revised Code or, if the 360
district is a joint vocational school district, under section 361
3318.42 of the Revised Code. However, if the school district 362
certifies to the commission that expenditure by the school 363
district is necessary to maintain the federal tax status or tax- 364
exempt status of notes or bonds issued by the school district to 365
pay for its share of the project cost or to comply with 366
applicable temporary investment periods or spending exceptions 367
to rebate as provided for under federal law in regard to those 368
notes or bonds, the school district may commit to spend, or 369
spend, a greater portion of the funds it provides during any 370
specific period than would otherwise be required under this 371
division. 372

(S) A provision stipulating that the commission may 373
prohibit the district from proceeding with any project if the 374
commission determines that the site is not suitable for 375
construction purposes. The commission may perform soil tests in 376
its determination of whether a site is appropriate for 377
construction purposes. 378

(T) A provision stipulating that, unless otherwise 379

authorized by the commission, any contingency reserve portion of 380
the construction budget prescribed by the commission shall be 381
used only to pay costs resulting from unforeseen job conditions, 382
to comply with rulings regarding building and other codes, to 383
pay costs related to design clarifications or corrections to 384
contract documents, and to pay the costs of settlements or 385
judgments related to the project as provided under section 386
3318.086 of the Revised Code; 387

(U) A provision stipulating that for continued release of 388
project funds the school district board shall comply with 389
~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ of the Revised 390
Code throughout the project and shall notify the department of 391
education and the Ohio community school association when the 392
board plans to dispose of facilities by sale under that section; 393

(V) A provision stipulating that the commission shall not 394
approve a contract for demolition of a facility until the school 395
district board has complied with ~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ 396
of the Revised Code relative to that 397
facility, unless demolition of that facility is to clear a site 398
for construction of a replacement facility included in the 399
district's project; 400

(W) A requirement for the school district to adhere to a 401
facilities maintenance plan approved by the commission. 402

Sec. 5705.10. (A) All revenue derived from the general 403
levy for current expense within the ten-mill limitation, from 404
any general levy for current expense authorized by vote in 405
excess of the ten-mill limitation, and from sources other than 406
the general property tax, unless its use for a particular 407
purpose is prescribed by law, shall be paid into the general 408
fund. 409

(B) All revenue derived from general or special levies for 410
debt charges, whether within or in excess of the ten-mill 411
limitation, which is levied for the debt charges on serial 412
bonds, notes, or certificates of indebtedness having a life less 413
than five years, shall be paid into the bond retirement fund; 414
and all such revenue which is levied for the debt charges on all 415
other bonds, notes, or certificates of indebtedness shall be 416
paid into the sinking fund. 417

(C) All revenue derived from a special levy shall be 418
credited to a special fund for the purpose for which the levy 419
was made. 420

(D) Except as otherwise provided by resolution adopted 421
pursuant to section 3315.01 of the Revised Code, all revenue 422
derived from a source other than the general property tax and 423
which the law prescribes shall be used for a particular purpose, 424
shall be paid into a special fund for such purpose. Except as 425
otherwise provided by resolution adopted pursuant to section 426
3315.01 of the Revised Code or as otherwise provided by section 427
3315.40 of the Revised Code, all revenue derived from a source 428
other than the general property tax, for which the law does not 429
prescribe use for a particular purpose, including interest 430
earned on the principal of any special fund, regardless of the 431
source or purpose of the principal, shall be paid into the 432
general fund. 433

(E) All proceeds from the sale of public obligations or 434
fractionalized interests in public obligations as defined in 435
section 133.01 of the Revised Code, except premium and accrued 436
interest, shall be paid into a special fund for the purpose of 437
such issue, and any interest and other income earned on money in 438
such special fund may be used for the purposes for which the 439

indebtedness was authorized or may be credited to the general 440
fund or other fund or account as the taxing authority authorizes 441
and used for the purposes of that fund or account. The premium 442
and accrued interest received from such sale shall be paid into 443
the sinking fund or the bond retirement fund of the subdivision. 444

(F) Except as provided in divisions (G) and (H) of this 445
section, if a permanent improvement of the subdivision is sold, 446
the amount received from the sale shall be paid into the sinking 447
fund, the bond retirement fund, or a special fund for the 448
construction or acquisition of permanent improvements; provided 449
that the proceeds from the sale of a public utility shall be 450
paid into the sinking fund or bond retirement fund to the extent 451
necessary to provide for the retirement of the outstanding 452
indebtedness incurred in the construction or acquisition of such 453
utility. Proceeds from the sale of property other than a 454
permanent improvement shall be paid into the fund from which 455
such property was acquired or is maintained or, if there is no 456
such fund, into the general fund. 457

(G) A township that has a population greater than fifteen 458
thousand according to the most recent federal decennial census 459
and that has declared one or more improvements in the township 460
to be a public purpose under section 5709.73 of the Revised Code 461
may pay proceeds from the sale of a permanent improvement of the 462
township into its general fund if both of the following 463
conditions are satisfied: 464

(1) The township fiscal officer determines that all 465
foreseeable public infrastructure improvements, as defined in 466
section 5709.40 of the Revised Code, to be made in the township 467
in the ten years immediately following the date the permanent 468
improvement is sold will have been financed through resolutions 469

adopted under section 5709.73 of the Revised Code on or before 470
the date of the sale. The fiscal officer shall provide written 471
certification of this determination for the township's records. 472

(2) The permanent improvement being sold was financed 473
entirely from moneys in the township's general fund. 474

(H) If a board of education of a school district disposes 475
of real property under section 3313.41, ~~3313.411, or 3313.413~~ of 476
the Revised Code, the proceeds received on or after September 477
29, 2013, from the sale shall be used for either of the 478
following purposes: 479

(1) The retirement of any debt that was incurred by the 480
district with respect to that real property. Proceeds in excess 481
of the funds necessary to retire that debt may be paid into the 482
school district's capital and maintenance fund and used only to 483
pay for the costs of nonoperating capital expenses related to 484
technology infrastructure and equipment to be used for 485
instruction and assessment. 486

(2) Payment into a special fund for the construction or 487
acquisition of permanent improvements. 488

(I) Money paid into any fund shall be used only for the 489
purposes for which such fund is established. 490

Section 2. That existing sections 3313.41, 3318.08, and 491
5705.10 and sections 3313.411, 3313.412, and 3313.413 of the 492
Revised Code are hereby repealed. 493