

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 265

Senator Ingram

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 be 7
amended and new section 3313.411 of the Revised Code 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 a board of education decides 12
to dispose of real or personal property that it owns in its 13
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 a community school established 45
under Chapter 3314. of the Revised Code; or to the board of 46
trustees of a school district library, upon such terms as are 47
agreed upon. The sale of real or personal property to the board 48
of trustees of a school district library is limited, in the case 49
of real property, to a school district library within whose 50

boundaries the real property is situated, or, in the case of 51
personal property, to a school district library whose boundaries 52
lie in whole or in part within the school district of the 53
selling board of education. 54

(D) When a board of education decides to trade as a part 55
or an entire consideration, an item of personal property on the 56
purchase price of an item of similar personal property, it may 57
trade the same upon such terms as are agreed upon by the parties 58
to the trade. 59

(E) The president and the treasurer of the board of 60
education shall execute and deliver deeds or other necessary 61
instruments of conveyance to complete any sale or trade under 62
this section. 63

(F) When a board of education has identified a parcel of 64
real property that it determines is needed for school purposes, 65
the board may, upon a majority vote of the members of the board, 66
acquire that property by exchanging real property that the board 67
owns in its corporate capacity for the identified real property 68
or by using real property that the board owns in its corporate 69
capacity as part or an entire consideration for the purchase 70
price of the identified real property. Any exchange or 71
acquisition made pursuant to this division shall be made by a 72
conveyance executed by the president and the treasurer of the 73
board. 74

(G) When a school district board of education has property 75
that the board, by resolution, finds is not needed for school 76
district use, is obsolete, or is unfit for the use for which it 77
was acquired, the board may donate that property in accordance 78
with this division if the fair market value of the property is, 79
in the opinion of the board, two thousand five hundred dollars 80

or less. 81

The property may be donated to an eligible nonprofit 82
organization that is located in this state and is exempt from 83
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 84
Before donating any property under this division, the board 85
shall adopt a resolution expressing its intent to make unneeded, 86
obsolete, or unfit-for-use school district property available to 87
these organizations. The resolution shall include guidelines and 88
procedures the board considers to be necessary to implement the 89
donation program and shall indicate whether the school district 90
will conduct the donation program or the board will contract 91
with a representative to conduct it. If a representative is 92
known when the resolution is adopted, the resolution shall 93
provide contact information such as the representative's name, 94
address, and telephone number. 95

The resolution shall include within its procedures a 96
requirement that any nonprofit organization desiring to obtain 97
donated property under this division shall submit a written 98
notice to the board or its representative. The written notice 99
shall include evidence that the organization is a nonprofit 100
organization that is located in this state and is exempt from 101
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); 102
a description of the organization's primary purpose; a 103
description of the type or types of property the organization 104
needs; and the name, address, and telephone number of a person 105
designated by the organization's governing board to receive 106
donated property and to serve as its agent. The written notice 107
may be submitted electronically to the board or its 108
representative. 109

After adoption of the resolution, the board shall 110

continually post in the board's office notice of its intent to 111
donate school district property that is unneeded, obsolete, or 112
unfit for use to eligible nonprofit organizations. If the school 113
district maintains a web site on the internet, the notice shall 114
be posted continually at that web site. 115

The board or its representatives shall maintain a list of 116
all nonprofit organizations that notify the board or its 117
representative of their desire to obtain donated property under 118
this division and that the board or its representative 119
determines to be eligible, in accordance with the requirements 120
set forth in this section and in the donation program's 121
guidelines and procedures, to receive donated property. 122

The board or its representative also shall maintain a list 123
of all school district property the board finds to be unneeded, 124
obsolete, or unfit for use and to be available for donation 125
under this division. The list shall be posted continually in a 126
conspicuous location in the board's office, and, if the school 127
district maintains a web site on the internet, the list shall be 128
posted continually at that web site. An item of property on the 129
list shall be donated to the eligible nonprofit organization 130
that first declares to the board or its representative its 131
desire to obtain the item unless the board previously has 132
established, by resolution, a list of eligible nonprofit 133
organizations that shall be given priority with respect to the 134
item's donation. Priority may be given on the basis that the 135
purposes of a nonprofit organization have a direct relationship 136
to specific school district purposes of programs provided or 137
administered by the board. A resolution giving priority to 138
certain nonprofit organizations with respect to the donation of 139
an item of property shall specify the reasons why the 140
organizations are given that priority. 141

Members of the board shall consult with the Ohio ethics 142
commission, and comply with Chapters 102. and 2921. of the 143
Revised Code, with respect to any donation under this division 144
to a nonprofit organization of which a board member, any member 145
of a board member's family, or any business associate of a board 146
member is a trustee, officer, board member, or employee. 147

Sec. 3313.411. (A) Except as provided in division (B) of 148
this section, the governing authority of a community school, the 149
board of trustees of a college-preparatory boarding school, or 150
the governing body of a STEM school shall not sell any property 151
purchased under division (B) of section 3313.411 of the Revised 152
Code as it existed prior to the effective date of this section 153
within five years of purchasing that property. 154

(B) The governing authority, board of trustees, or 155
governing body may sell a property purchased under division (B) 156
of section 3313.411 of the Revised Code as it existed prior to 157
the effective date of this section within five years of the 158
purchase, only if the governing authority, board of trustees, or 159
governing body sells or transfers that property to another 160
governing authority, board of trustees, or governing body. 161

Sec. 3318.08. Except in the case of a joint vocational 162
school district that receives assistance under sections 3318.40 163
to 3318.45 of the Revised Code, if the requisite favorable vote 164
on the election is obtained, or if the school district board has 165
resolved to apply the proceeds of a property tax levy or the 166
proceeds of an income tax, or a combination of proceeds from 167
such taxes, as authorized in section 3318.052 of the Revised 168
Code, the Ohio facilities construction commission, upon 169
certification to it of either the results of the election or the 170
resolution under section 3318.052 of the Revised Code, shall 171

enter into a written agreement with the school district board 172
for the construction and sale of the project. In the case of a 173
joint vocational school district that receives assistance under 174
sections 3318.40 to 3318.45 of the Revised Code, if the school 175
district board of education and the school district electors 176
have satisfied the conditions prescribed in division (D) (1) of 177
section 3318.41 of the Revised Code, the commission shall enter 178
into an agreement with the school district board for the 179
construction and sale of the project. In either case, the 180
agreement shall include, but need not be limited to, the 181
following provisions: 182

(A) The sale and issuance of bonds or notes in 183
anticipation thereof, as soon as practicable after the execution 184
of the agreement, in an amount equal to the school district's 185
portion of the basic project cost, including any securities 186
authorized under division (J) of section 133.06 of the Revised 187
Code and dedicated by the school district board to payment of 188
the district's portion of the basic project cost of the project; 189
provided, that if at that time the county treasurer of each 190
county in which the school district is located has not commenced 191
the collection of taxes on the general duplicate of real and 192
public utility property for the year in which the controlling 193
board approved the project, the school district board shall 194
authorize the issuance of a first installment of bond 195
anticipation notes in an amount specified by the agreement, 196
which amount shall not exceed an amount necessary to raise the 197
net bonded indebtedness of the school district as of the date of 198
the controlling board's approval to within five thousand dollars 199
of the required level of indebtedness for the preceding year. In 200
the event that a first installment of bond anticipation notes is 201
issued, the school district board shall, as soon as practicable 202

after the county treasurer of each county in which the school 203
district is located has commenced the collection of taxes on the 204
general duplicate of real and public utility property for the 205
year in which the controlling board approved the project, 206
authorize the issuance of a second and final installment of bond 207
anticipation notes or a first and final issue of bonds. 208

The combined value of the first and second installment of 209
bond anticipation notes or the value of the first and final 210
issue of bonds shall be equal to the school district's portion 211
of the basic project cost. The proceeds of any such bonds shall 212
be used first to retire any bond anticipation notes. Otherwise, 213
the proceeds of such bonds and of any bond anticipation notes, 214
except the premium and accrued interest thereon, shall be 215
deposited in the school district's project construction fund. In 216
determining the amount of net bonded indebtedness for the 217
purpose of fixing the amount of an issue of either bonds or bond 218
anticipation notes, gross indebtedness shall be reduced by 219
moneys in the bond retirement fund only to the extent of the 220
moneys therein on the first day of the year preceding the year 221
in which the controlling board approved the project. Should 222
there be a decrease in the tax valuation of the school district 223
so that the amount of indebtedness that can be incurred on the 224
tax duplicates for the year in which the controlling board 225
approved the project is less than the amount of the first 226
installment of bond anticipation notes, there shall be paid from 227
the school district's project construction fund to the school 228
district's bond retirement fund to be applied against such notes 229
an amount sufficient to cause the net bonded indebtedness of the 230
school district, as of the first day of the year following the 231
year in which the controlling board approved the project, to be 232
within five thousand dollars of the required level of 233

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

(B) The transfer of such funds of the school district 246
board available for the project, together with the proceeds of 247
the sale of the bonds or notes, except premium, accrued 248
interest, and interest included in the amount of the issue, to 249
the school district's project construction fund; 250

(C) For all school districts except joint vocational 251
school districts that receive assistance under sections 3318.40 252
to 3318.45 of the Revised Code, the following provisions as 253
applicable: 254

(1) If section 3318.052 of the Revised Code applies, the 255
earmarking of the proceeds of a tax levied under section 5705.21 256
of the Revised Code for general permanent improvements or under 257
section 5705.218 of the Revised Code for the purpose of 258
permanent improvements, or the proceeds of a school district 259
income tax levied under Chapter 5748. of the Revised Code, or 260
the proceeds from a combination of those two taxes, in an amount 261
to pay all or part of the service charges on bonds issued to pay 262
the school district portion of the project and an amount 263

equivalent to all or part of the tax required under division (B)	264
of section 3318.05 of the Revised Code;	265
(2) If section 3318.052 of the Revised Code does not	266
apply, one of the following:	267
(a) The levy of the tax authorized at the election for the	268
payment of maintenance costs, as specified in division (B) of	269
section 3318.05 of the Revised Code;	270
(b) If the school district electors have approved a	271
continuing tax for general permanent improvements under section	272
5705.21 of the Revised Code and that tax can be used for	273
maintenance, the earmarking of an amount of the proceeds from	274
such tax for maintenance of classroom facilities as specified in	275
division (B) of section 3318.05 of the Revised Code;	276
(c) If, in lieu of the tax otherwise required under	277
division (B) of section 3318.05 of the Revised Code, the	278
commission has approved the transfer of money to the maintenance	279
fund in accordance with section 3318.051 of the Revised Code, a	280
requirement that the district board comply with the provisions	281
of that section. The district board may rescind the provision	282
prescribed under division (C) (2) (c) of this section only so long	283
as the electors of the district have approved, in accordance	284
with section 3318.063 of the Revised Code, the levy of a tax for	285
the maintenance of the classroom facilities acquired under the	286
district's project and that levy continues to be collected as	287
approved by the electors.	288
(D) For joint vocational school districts that receive	289
assistance under sections 3318.40 to 3318.45 of the Revised	290
Code, provision for deposit of school district moneys dedicated	291
to maintenance of the classroom facilities acquired under those	292

sections as prescribed in section 3318.43 of the Revised Code;	293
(E) Dedication of any local donated contribution as	294
provided for under section 3318.084 of the Revised Code,	295
including a schedule for depositing such moneys applied as an	296
offset of the district's obligation to levy the tax described in	297
division (B) of section 3318.05 of the Revised Code as required	298
under division (D) (2) of section 3318.084 of the Revised Code;	299
(F) Ownership of or interest in the project during the	300
period of construction, which shall be divided between the	301
commission and the school district board in proportion to their	302
respective contributions to the school district's project	303
construction fund;	304
(G) Maintenance of the state's interest in the project	305
until any obligations issued for the project under section	306
3318.26 of the Revised Code are no longer outstanding;	307
(H) The insurance of the project by the school district	308
from the time there is an insurable interest therein and so long	309
as the state retains any ownership or interest in the project	310
pursuant to division (F) of this section, in such amounts and	311
against such risks as the commission shall require; provided,	312
that the cost of any required insurance until the project is	313
completed shall be a part of the basic project cost;	314
(I) The certification by the director of budget and	315
management that funds are available and have been set aside to	316
meet the state's share of the basic project cost as approved by	317
the controlling board pursuant to either section 3318.04 or	318
division (B) (1) of section 3318.41 of the Revised Code;	319
(J) Authorization of the school district board to	320
advertise for and receive construction bids for the project, for	321

and on behalf of the commission, and to award contracts in the	322
name of the state subject to approval by the commission;	323
(K) Provisions for the disbursement of moneys from the	324
school district's project account upon issuance by the	325
commission or the commission's designated representative of	326
vouchers for work done to be certified to the commission by the	327
treasurer of the school district board;	328
(L) Disposal of any balance left in the school district's	329
project construction fund upon completion of the project;	330
(M) Limitations upon use of the project or any part of it	331
so long as any obligations issued to finance the project under	332
section 3318.26 of the Revised Code are outstanding;	333
(N) Provision for vesting the state's interest in the	334
project to the school district board when the obligations issued	335
to finance the project under section 3318.26 of the Revised Code	336
are outstanding;	337
(O) Provision for deposit of an executed copy of the	338
agreement in the office of the commission;	339
(P) Provision for termination of the contract and release	340
of the funds encumbered at the time of the conditional approval,	341
if the proceeds of the sale of the bonds of the school district	342
board are not paid into the school district's project	343
construction fund and if bids for the construction of the	344
project have not been taken within such period after the	345
execution of the agreement as may be fixed by the commission;	346
(Q) A provision that requires the school district to	347
adhere to a facilities maintenance plan approved by the	348
commission;	349

(R) Provision that all state funds reserved and encumbered 350
to pay the state share of the cost of the project and the funds 351
provided by the school district to pay for its share of the 352
project cost, including the respective shares of the cost of a 353
segment if the project is divided into segments, be spent on the 354
construction and acquisition of the project or segment 355
simultaneously in proportion to the state's and the school 356
district's respective shares of that basic project cost as 357
determined under section 3318.032 of the Revised Code or, if the 358
district is a joint vocational school district, under section 359
3318.42 of the Revised Code. However, if the school district 360
certifies to the commission that expenditure by the school 361
district is necessary to maintain the federal tax status or tax- 362
exempt status of notes or bonds issued by the school district to 363
pay for its share of the project cost or to comply with 364
applicable temporary investment periods or spending exceptions 365
to rebate as provided for under federal law in regard to those 366
notes or bonds, the school district may commit to spend, or 367
spend, a greater portion of the funds it provides during any 368
specific period than would otherwise be required under this 369
division. 370

(S) A provision stipulating that the commission may 371
prohibit the district from proceeding with any project if the 372
commission determines that the site is not suitable for 373
construction purposes. The commission may perform soil tests in 374
its determination of whether a site is appropriate for 375
construction purposes. 376

(T) A provision stipulating that, unless otherwise 377
authorized by the commission, any contingency reserve portion of 378
the construction budget prescribed by the commission shall be 379
used only to pay costs resulting from unforeseen job conditions, 380

to comply with rulings regarding building and other codes, to 381
pay costs related to design clarifications or corrections to 382
contract documents, and to pay the costs of settlements or 383
judgments related to the project as provided under section 384
3318.086 of the Revised Code; 385

(U) A provision stipulating that for continued release of 386
project funds the school district board shall comply with 387
~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ of the Revised 388
Code throughout the project and shall notify the department of 389
education and workforce and the Ohio community school 390
association when the board plans to dispose of facilities by 391
sale under that section; 392

(V) A provision stipulating that the commission shall not 393
approve a contract for demolition of a facility until the school 394
district board has complied with ~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ 395
of the Revised Code relative to that 396
facility, unless demolition of that facility is to clear a site 397
for construction of a replacement facility included in the 398
district's project. 399

Sec. 5705.10. (A) All revenue derived from the general 400
levy for current expense within the ten-mill limitation, from 401
any general levy for current expense authorized by vote in 402
excess of the ten-mill limitation, and from sources other than 403
the general property tax, unless its use for a particular 404
purpose is prescribed by law, shall be paid into the general 405
fund. 406

(B) All revenue derived from general or special levies for 407
debt charges, whether within or in excess of the ten-mill 408
limitation, which is levied for the debt charges on serial 409
bonds, notes, or certificates of indebtedness having a life less 410

than five years, shall be paid into the bond retirement fund; 411
and all such revenue which is levied for the debt charges on all 412
other bonds, notes, or certificates of indebtedness shall be 413
paid into the sinking fund. 414

(C) All revenue derived from a special levy shall be 415
credited to a special fund for the purpose for which the levy 416
was made. 417

(D) Except as otherwise provided by resolution adopted 418
pursuant to section 3315.01 of the Revised Code, all revenue 419
derived from a source other than the general property tax and 420
which the law prescribes shall be used for a particular purpose, 421
shall be paid into a special fund for such purpose. Except as 422
otherwise provided by resolution adopted pursuant to section 423
3315.01 of the Revised Code or as otherwise provided by section 424
3315.40 of the Revised Code, all revenue derived from a source 425
other than the general property tax, for which the law does not 426
prescribe use for a particular purpose, including interest 427
earned on the principal of any special fund, regardless of the 428
source or purpose of the principal, shall be paid into the 429
general fund. 430

(E) All proceeds from the sale of public obligations or 431
fractionalized interests in public obligations as defined in 432
section 133.01 of the Revised Code, except premium and accrued 433
interest, shall be paid into a special fund for the purpose of 434
such issue, and any interest and other income earned on money in 435
such special fund may be used for the purposes for which the 436
indebtedness was authorized or may be credited to the general 437
fund or other fund or account as the taxing authority authorizes 438
and used for the purposes of that fund or account. The premium 439
and accrued interest received from such sale shall be paid into 440

the sinking fund or the bond retirement fund of the subdivision. 441

(F) Except as provided in divisions (G) and (H) of this 442
section, if a permanent improvement of the subdivision is sold, 443
the amount received from the sale shall be paid into the sinking 444
fund, the bond retirement fund, or a special fund for the 445
construction or acquisition of permanent improvements; provided 446
that the proceeds from the sale of a public utility shall be 447
paid into the sinking fund or bond retirement fund to the extent 448
necessary to provide for the retirement of the outstanding 449
indebtedness incurred in the construction or acquisition of such 450
utility. Proceeds from the sale of property other than a 451
permanent improvement shall be paid into the fund from which 452
such property was acquired or is maintained or, if there is no 453
such fund, into the general fund. 454

(G) A township that has a population greater than fifteen 455
thousand according to the most recent federal decennial census 456
and that has declared one or more improvements in the township 457
to be a public purpose under section 5709.73 of the Revised Code 458
may pay proceeds from the sale of a permanent improvement of the 459
township into its general fund if both of the following 460
conditions are satisfied: 461

(1) The township fiscal officer determines that all 462
foreseeable public infrastructure improvements, as defined in 463
section 5709.40 of the Revised Code, to be made in the township 464
in the ten years immediately following the date the permanent 465
improvement is sold will have been financed through resolutions 466
adopted under section 5709.73 of the Revised Code on or before 467
the date of the sale. The fiscal officer shall provide written 468
certification of this determination for the township's records. 469

(2) The permanent improvement being sold was financed 470

entirely from moneys in the township's general fund. 471

(H) If a board of education of a school district disposes 472
of real property under section 3313.41, ~~3313.411, or 3313.413~~ of 473
the Revised Code, the proceeds received on or after September 474
29, 2013, from the sale shall be used for either of the 475
following purposes: 476

(1) The retirement of any debt that was incurred by the 477
district with respect to that real property. Proceeds in excess 478
of the funds necessary to retire that debt may be paid into the 479
school district's capital and maintenance fund and used only to 480
pay for the costs of nonoperating capital expenses related to 481
technology infrastructure and equipment to be used for 482
instruction and assessment. 483

(2) Payment into a special fund for the construction or 484
acquisition of permanent improvements. 485

(I) Money paid into any fund shall be used only for the 486
purposes for which such fund is established. 487

Section 2. That existing sections 3313.41, 3318.08, and 488
5705.10 of the Revised Code are hereby repealed. 489

Section 3. That sections 3313.411, 3313.412, and 3313.413 490
of the Revised Code are hereby repealed. 491