

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 487

Representative Ingram

Cosponsors: Representatives Galonski, Howse, Ramos, Smith, K., West

A BILL

To amend sections 3313.41, 3318.08, and 5705.10, to
enact new section 3313.411, and to repeal
sections 3313.411, 3313.412, and 3313.413 of the
Revised Code to eliminate the right of first
refusal for community schools, college-
preparatory boarding schools, and science,
technology, engineering, and mathematics schools
in the acquisition of school district real
property.

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

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

Sec. 3313.41. (A) ~~Except as provided in divisions (C),~~
~~(D), and (F) of this section and in sections 3313.412 and~~
~~3313.413 of the Revised Code, when~~ When 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 shall sell the property at public auction, after

giving at least thirty days' notice of the auction by 19
publication in a newspaper of general circulation in the school 20
district, by publication as provided in section 7.16 of the 21
Revised Code, or by posting notices in five of the most public 22
places in the school district in which the property, if it is 23
real property, is situated, or, if it is personal property, in 24
the school district of the board of education that owns the 25
property. The board may offer real property for sale as an 26
entire tract or in parcels. 27

(B) When the board of education has offered real or 28
personal property for sale at public auction at least once 29
pursuant to division (A) of this section, and the property has 30
not been sold, the board may sell it at a private sale. 31
Regardless of how it was offered at public auction, at a private 32
sale, the board shall, as it considers best, sell real property 33
as an entire tract or in parcels, and personal property in a 34
single lot or in several lots. 35

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

sale of real or personal property to the board of trustees of a 50
school district library is limited, in the case of real 51
property, to a school district library within whose boundaries 52
the real property is situated, or, in the case of personal 53
property, to a school district library whose boundaries lie in 54
whole or in part within the school district of the selling board 55
of education. 56

(D) When a board of education decides to trade as a part 57
or an entire consideration, an item of personal property on the 58
purchase price of an item of similar personal property, it may 59
trade the same upon such terms as are agreed upon by the parties 60
to the trade. 61

(E) The president and the treasurer of the board of 62
education shall execute and deliver deeds or other necessary 63
instruments of conveyance to complete any sale or trade under 64
this section. 65

(F) When a board of education has identified a parcel of 66
real property that it determines is needed for school purposes, 67
the board may, upon a majority vote of the members of the board, 68
acquire that property by exchanging real property that the board 69
owns in its corporate capacity for the identified real property 70
or by using real property that the board owns in its corporate 71
capacity as part or an entire consideration for the purchase 72
price of the identified real property. Any exchange or 73
acquisition made pursuant to this division shall be made by a 74
conveyance executed by the president and the treasurer of the 75
board. 76

(G) When a school district board of education has property 77
that the board, by resolution, finds is not needed for school 78
district use, is obsolete, or is unfit for the use for which it 79

was acquired, the board may donate that property in accordance 80
with this division if the fair market value of the property is, 81
in the opinion of the board, two thousand five hundred dollars 82
or less. 83

The property may be donated to an eligible nonprofit 84
organization that is located in this state and is exempt from 85
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 86
Before donating any property under this division, the board 87
shall adopt a resolution expressing its intent to make unneeded, 88
obsolete, or unfit-for-use school district property available to 89
these organizations. The resolution shall include guidelines and 90
procedures the board considers to be necessary to implement the 91
donation program and shall indicate whether the school district 92
will conduct the donation program or the board will contract 93
with a representative to conduct it. If a representative is 94
known when the resolution is adopted, the resolution shall 95
provide contact information such as the representative's name, 96
address, and telephone number. 97

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

After adoption of the resolution, the board shall publish, 110
in a newspaper of general circulation in the school district or 111
as provided in section 7.16 of the Revised Code, notice of its 112
intent to donate unneeded, obsolete, or unfit-for-use school 113
district property to eligible nonprofit organizations. The 114
notice shall include a summary of the information provided in 115
the resolution and shall be published twice. The second notice 116
shall be published not less than ten nor more than twenty days 117
after the previous notice. A similar notice also shall be posted 118
continually in the board's office. If the school district 119
maintains a web site on the internet, the notice shall be posted 120
continually at that web site. 121

The board or its representatives shall maintain a list of 122
all 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 125
determines to be eligible, in accordance with the requirements 126
set forth in this section and in the donation program's 127
guidelines and procedures, to receive donated property. 128

The board or its representative also shall maintain a list 129
of all school district property the board finds to be unneeded, 130
obsolete, or unfit for use and to be available for donation 131
under 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 136
that first declares to the board or its representative its 137
desire to obtain the item unless the board previously has 138
established, by resolution, a list of eligible nonprofit 139
organizations that shall be given priority with respect to the 140

item's donation. Priority may be given on the basis that the
purposes of a nonprofit organization have a direct relationship
to specific school district purposes of programs provided or
administered by the board. A resolution giving priority to
certain nonprofit organizations with respect to the donation of
an item of property shall specify the reasons why the
organizations are given that priority.

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

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

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

Sec. 3318.08. Except 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 requisite favorable vote

on the election is obtained, or if the school district board has 171
resolved to apply the proceeds of a property tax levy or the 172
proceeds of an income tax, or a combination of proceeds from 173
such taxes, as authorized in section 3318.052 of the Revised 174
Code, the Ohio facilities construction commission, upon 175
certification to it of either the results of the election or the 176
resolution under section 3318.052 of the Revised Code, shall 177
enter into a written agreement with the school district board 178
for the construction and sale of the project. In the case of a 179
joint vocational school district that receives assistance under 180
sections 3318.40 to 3318.45 of the Revised Code, if the school 181
district board of education and the school district electors 182
have satisfied the conditions prescribed in division (D) (1) of 183
section 3318.41 of the Revised Code, the commission shall enter 184
into an agreement with the school district board for the 185
construction and sale of the project. In either case, the 186
agreement shall include, but need not be limited to, the 187
following provisions: 188

(A) The sale and issuance of bonds or notes in 189
anticipation thereof, as soon as practicable after the execution 190
of the agreement, in an amount equal to the school district's 191
portion of the basic project cost, including any securities 192
authorized under division (J) of section 133.06 of the Revised 193
Code and dedicated by the school district board to payment of 194
the district's portion of the basic project cost of the project; 195
provided, that if at that time the county treasurer of each 196
county in which the school district is located has not commenced 197
the collection of taxes on the general duplicate of real and 198
public utility property for the year in which the controlling 199
board approved the project, the school district board shall 200
authorize the issuance of a first installment of bond 201

anticipation notes in an amount specified by the agreement, 202
which amount shall not exceed an amount necessary to raise the 203
net bonded indebtedness of the school district as of the date of 204
the controlling board's approval to within five thousand dollars 205
of the required level of indebtedness for the preceding year. In 206
the event that a first installment of bond anticipation notes is 207
issued, the school district board shall, as soon as practicable 208
after the county treasurer of each county in which the school 209
district is located has commenced the collection of taxes on the 210
general duplicate of real and public utility property for the 211
year in which the controlling board approved the project, 212
authorize the issuance of a second and final installment of bond 213
anticipation notes or a first and final issue of bonds. 214

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

installment of bond anticipation notes, there shall be paid from 233
the school district's project construction fund to the school 234
district's bond retirement fund to be applied against such notes 235
an amount sufficient to cause the net bonded indebtedness of the 236
school district, as of the first day of the year following the 237
year in which the controlling board approved the project, to be 238
within five thousand dollars of the required level of 239
indebtedness for the year in which the controlling board 240
approved the project. The maximum amount of indebtedness to be 241
incurred by any school district board as its share of the cost 242
of the project is either an amount that will cause its net 243
bonded indebtedness, as of the first day of the year following 244
the year in which the controlling board approved the project, to 245
be within five thousand dollars of the required level of 246
indebtedness, or an amount equal to the required percentage of 247
the basic project costs, whichever is greater. All bonds and 248
bond anticipation notes shall be issued in accordance with 249
Chapter 133. of the Revised Code, and notes may be renewed as 250
provided in section 133.22 of the Revised Code. 251

(B) The transfer of such funds of the school district 252
board available for the project, together with the proceeds of 253
the sale of the bonds or notes, except premium, accrued 254
interest, and interest included in the amount of the issue, to 255
the school district's project construction fund; 256

(C) For all school districts except joint vocational 257
school districts that receive assistance under sections 3318.40 258
to 3318.45 of the Revised Code, the following provisions as 259
applicable: 260

(1) If section 3318.052 of the Revised Code applies, the 261
earmarking of the proceeds of a tax levied under section 5705.21 262

of the Revised Code for general permanent improvements or under 263
section 5705.218 of the Revised Code for the purpose of 264
permanent improvements, or the proceeds of a school district 265
income tax levied under Chapter 5748. of the Revised Code, or 266
the proceeds from a combination of those two taxes, in an amount 267
to pay all or part of the service charges on bonds issued to pay 268
the school district portion of the project and an amount 269
equivalent to all or part of the tax required under division (B) 270
of section 3318.05 of the Revised Code; 271

(2) If section 3318.052 of the Revised Code does not 272
apply, one of the following: 273

(a) The levy of the tax authorized at the election for the 274
payment of maintenance costs, as specified in division (B) of 275
section 3318.05 of the Revised Code; 276

(b) If the school district electors have approved a 277
continuing tax for general permanent improvements under section 278
5705.21 of the Revised Code and that tax can be used for 279
maintenance, the earmarking of an amount of the proceeds from 280
such tax for maintenance of classroom facilities as specified in 281
division (B) of section 3318.05 of the Revised Code; 282

(c) If, in lieu of the tax otherwise required under 283
division (B) of section 3318.05 of the Revised Code, the 284
commission has approved the transfer of money to the maintenance 285
fund in accordance with section 3318.051 of the Revised Code, a 286
requirement that the district board comply with the provisions 287
of that section. The district board may rescind the provision 288
prescribed under division (C) (2) (c) of this section only so long 289
as the electors of the district have approved, in accordance 290
with section 3318.063 of the Revised Code, the levy of a tax for 291
the maintenance of the classroom facilities acquired under the 292

district's project and that levy continues to be collected as 293
approved by the electors. 294

(D) For joint vocational school districts that receive 295
assistance under sections 3318.40 to 3318.45 of the Revised 296
Code, provision for deposit of school district moneys dedicated 297
to maintenance of the classroom facilities acquired under those 298
sections as prescribed in section 3318.43 of the Revised Code; 299

(E) Dedication of any local donated contribution as 300
provided for under section 3318.084 of the Revised Code, 301
including a schedule for depositing such moneys applied as an 302
offset of the district's obligation to levy the tax described in 303
division (B) of section 3318.05 of the Revised Code as required 304
under division (D) (2) of section 3318.084 of the Revised Code; 305

(F) Ownership of or interest in the project during the 306
period of construction, which shall be divided between the 307
commission and the school district board in proportion to their 308
respective contributions to the school district's project 309
construction fund; 310

(G) Maintenance of the state's interest in the project 311
until any obligations issued for the project under section 312
3318.26 of the Revised Code are no longer outstanding; 313

(H) The insurance of the project by the school district 314
from the time there is an insurable interest therein and so long 315
as the state retains any ownership or interest in the project 316
pursuant to division (F) of this section, in such amounts and 317
against such risks as the commission shall require; provided, 318
that the cost of any required insurance until the project is 319
completed shall be a part of the basic project cost; 320

(I) The certification by the director of budget and 321

management that funds are available and have been set aside to 322
meet the state's share of the basic project cost as approved by 323
the controlling board pursuant to either section 3318.04 or 324
division (B) (1) of section 3318.41 of the Revised Code; 325

(J) Authorization of the school district board to 326
advertise for and receive construction bids for the project, for 327
and on behalf of the commission, and to award contracts in the 328
name of the state subject to approval by the commission; 329

(K) Provisions for the disbursement of moneys from the 330
school district's project account upon issuance by the 331
commission or the commission's designated representative of 332
vouchers for work done to be certified to the commission by the 333
treasurer of the school district board; 334

(L) Disposal of any balance left in the school district's 335
project construction fund upon completion of the project; 336

(M) Limitations upon use of the project or any part of it 337
so long as any obligations issued to finance the project under 338
section 3318.26 of the Revised Code are outstanding; 339

(N) Provision for vesting the state's interest in the 340
project to the school district board when the obligations issued 341
to finance the project under section 3318.26 of the Revised Code 342
are outstanding; 343

(O) Provision for deposit of an executed copy of the 344
agreement in the office of the commission; 345

(P) Provision for termination of the contract and release 346
of the funds encumbered at the time of the conditional approval, 347
if the proceeds of the sale of the bonds of the school district 348
board are not paid into the school district's project 349
construction fund and if bids for the construction of the 350

project have not been taken within such period after the 351
execution of the agreement as may be fixed by the commission; 352

(Q) Provision for the school district to maintain the 353
project in accordance with a plan approved by the commission; 354

(R) Provision that all state funds reserved and encumbered 355
to pay the state share of the cost of the project and the funds 356
provided by the school district to pay for its share of the 357
project cost, including the respective shares of the cost of a 358
segment if the project is divided into segments, be spent on the 359
construction and acquisition of the project or segment 360
simultaneously in proportion to the state's and the school 361
district's respective shares of that basic project cost as 362
determined under section 3318.032 of the Revised Code or, if the 363
district is a joint vocational school district, under section 364
3318.42 of the Revised Code. However, if the school district 365
certifies to the commission that expenditure by the school 366
district is necessary to maintain the federal tax status or tax- 367
exempt status of notes or bonds issued by the school district to 368
pay for its share of the project cost or to comply with 369
applicable temporary investment periods or spending exceptions 370
to rebate as provided for under federal law in regard to those 371
notes or bonds, the school district may commit to spend, or 372
spend, a greater portion of the funds it provides during any 373
specific period than would otherwise be required under this 374
division. 375

(S) A provision stipulating that the commission may 376
prohibit the district from proceeding with any project if the 377
commission determines that the site is not suitable for 378
construction purposes. The commission may perform soil tests in 379
its determination of whether a site is appropriate for 380

construction purposes. 381

(T) A provision stipulating that, unless otherwise 382
authorized by the commission, any contingency reserve portion of 383
the construction budget prescribed by the commission shall be 384
used only to pay costs resulting from unforeseen job conditions, 385
to comply with rulings regarding building and other codes, to 386
pay costs related to design clarifications or corrections to 387
contract documents, and to pay the costs of settlements or 388
judgments related to the project as provided under section 389
3318.086 of the Revised Code; 390

(U) A provision stipulating that for continued release of 391
project funds the school district board shall comply with 392
~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ of the Revised 393
Code throughout the project and shall notify the department of 394
education and the Ohio community school association when the 395
board plans to dispose of facilities by sale under that section; 396

(V) A provision stipulating that the commission shall not 397
approve a contract for demolition of a facility until the school 398
district board has complied with ~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ 399
of the Revised Code relative to that 400
facility, unless demolition of that facility is to clear a site 401
for construction of a replacement facility included in the 402
district's project; 403

(W) A requirement for the school district to adhere to a 404
facilities maintenance plan approved by the commission. 405

Sec. 5705.10. (A) All revenue derived from the general 406
levy for current expense within the ten-mill limitation, from 407
any general levy for current expense authorized by vote in 408
excess of the ten-mill limitation, and from sources other than 409

the general property tax, unless its use for a particular 410
purpose is prescribed by law, shall be paid into the general 411
fund. 412

(B) All revenue derived from general or special levies for 413
debt charges, whether within or in excess of the ten-mill 414
limitation, which is levied for the debt charges on serial 415
bonds, notes, or certificates of indebtedness having a life less 416
than five years, shall be paid into the bond retirement fund; 417
and all such revenue which is levied for the debt charges on all 418
other bonds, notes, or certificates of indebtedness shall be 419
paid into the sinking fund. 420

(C) All revenue derived from a special levy shall be 421
credited to a special fund for the purpose for which the levy 422
was made. 423

(D) Except as otherwise provided by resolution adopted 424
pursuant to section 3315.01 of the Revised Code, all revenue 425
derived from a source other than the general property tax and 426
which the law prescribes shall be used for a particular purpose, 427
shall be paid into a special fund for such purpose. Except as 428
otherwise provided by resolution adopted pursuant to section 429
3315.01 of the Revised Code or as otherwise provided by section 430
3315.40 of the Revised Code, all revenue derived from a source 431
other than the general property tax, for which the law does not 432
prescribe use for a particular purpose, including interest 433
earned on the principal of any special fund, regardless of the 434
source or purpose of the principal, shall be paid into the 435
general fund. 436

(E) All proceeds from the sale of public obligations or 437
fractionalized interests in public obligations as defined in 438
section 133.01 of the Revised Code, except premium and accrued 439

interest, shall be paid into a special fund for the purpose of 440
such issue, and any interest and other income earned on money in 441
such special fund may be used for the purposes for which the 442
indebtedness was authorized or may be credited to the general 443
fund or other fund or account as the taxing authority authorizes 444
and used for the purposes of that fund or account. The premium 445
and accrued interest received from such sale shall be paid into 446
the sinking fund or the bond retirement fund of the subdivision. 447

(F) Except as provided in divisions (G) and (H) of this 448
section, if a permanent improvement of the subdivision is sold, 449
the amount received from the sale shall be paid into the sinking 450
fund, the bond retirement fund, or a special fund for the 451
construction or acquisition of permanent improvements; provided 452
that the proceeds from the sale of a public utility shall be 453
paid into the sinking fund or bond retirement fund to the extent 454
necessary to provide for the retirement of the outstanding 455
indebtedness incurred in the construction or acquisition of such 456
utility. Proceeds from the sale of property other than a 457
permanent improvement shall be paid into the fund from which 458
such property was acquired or is maintained or, if there is no 459
such fund, into the general fund. 460

(G) A township that has a population greater than fifteen 461
thousand according to the most recent federal decennial census 462
and that has declared one or more improvements in the township 463
to be a public purpose under section 5709.73 of the Revised Code 464
may pay proceeds from the sale of a permanent improvement of the 465
township into its general fund if both of the following 466
conditions are satisfied: 467

(1) The township fiscal officer determines that all 468
foreseeable public infrastructure improvements, as defined in 469

section 5709.40 of the Revised Code, to be made in the township 470
in the ten years immediately following the date the permanent 471
improvement is sold will have been financed through resolutions 472
adopted under section 5709.73 of the Revised Code on or before 473
the date of the sale. The fiscal officer shall provide written 474
certification of this determination for the township's records. 475

(2) The permanent improvement being sold was financed 476
entirely from moneys in the township's general fund. 477

(H) If a board of education of a school district disposes 478
of real property under section 3313.41, ~~3313.411, or 3313.413~~ of 479
the Revised Code, the proceeds received on or after September 480
29, 2013, from the sale shall be used for either of the 481
following purposes: 482

(1) The retirement of any debt that was incurred by the 483
district with respect to that real property. Proceeds in excess 484
of the funds necessary to retire that debt may be paid into the 485
school district's capital and maintenance fund and used only to 486
pay for the costs of nonoperating capital expenses related to 487
technology infrastructure and equipment to be used for 488
instruction and assessment. 489

(2) Payment into a special fund for the construction or 490
acquisition of permanent improvements. 491

(I) Money paid into any fund shall be used only for the 492
purposes for which such fund is established. 493

Section 2. That existing sections 3313.41, 3318.08, and 494
5705.10 and sections 3313.411, 3313.412, and 3313.413 of the 495
Revised Code are hereby repealed. 496