



Reprinted
February 9, 2011

SENATE BILL No. 446

DIGEST OF SB 446 (Updated February 8, 2011 3:17 pm - DI 71)

Citations Affected: IC 20-26.

Synopsis: Use of public school property by charter schools. Establishes a process by which charter schools may lease unused, closed, or unoccupied school buildings that are maintained by school corporations and are not being used for classroom instruction.

Effective: July 1, 2011.

**Schneider, Yoder, Kruse, Buck,
Banks, Rogers**

January 12, 2011, read first time and referred to Committee on Education and Career Development.
January 31, 2011, amended, reported favorably — Do Pass.
February 8, 2011, read second time, amended, ordered engrossed.

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SB 446—LS 7074/DI 109+



First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 446

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-26-7-1, AS AMENDED BY P.L.234-2007,
2 SECTION 227, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) If a governing body of a
4 school corporation determines that any real or personal property:
5 (1) is no longer needed for school purposes; or
6 (2) should, in the interests of the school corporation, be
7 exchanged for other property;
8 the governing body may sell or exchange the property in accordance
9 with IC 36-1-11.
10 (b) Money derived from the sale or exchange of property under this
11 section shall be placed in any school fund:
12 (1) established under applicable law; and
13 (2) that the governing body considers appropriate.
14 (c) A governing body may not make a covenant that prohibits the
15 sale of real property to another educational institution.
16 (d) **This subsection does not apply to a school building that on**
17 **July 1, 2011, is leased or loaned by the school corporation that**

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owns the school building to another entity. A governing body shall make available for lease or purchase to any charter school (as defined in IC 20-24-1-4) any school building owned by the school corporation that:

(1) either:

(A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or

(B) appears on the list compiled by the department under subsection (e); and

(2) was previously used for classroom instruction;

in order for the charter school to conduct classroom instruction.

(e) Each governing body shall inform the department whenever a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and make the list available on the department's Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list each year before August 31.

(f) A school building that appears for the first time on the department's list under subsection (e) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates the school building may be reclaimed during that period for classroom instruction, which must begin not later than one (1) year after the school building is reclaimed. If the school building remains unused for classroom instruction one (1) year after being reclaimed, the governing body shall place the school building on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(g) If a charter school wishes to use a school building on the list created under subsection (e), the charter school shall send a letter of intent to the department. The department shall notify the school corporation of the charter school's intent, and the school corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1). The

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1 charter school must begin to use the school building for classroom
 2 instruction not later than two (2) years after acquiring the school
 3 building. If the school building is not used for classroom
 4 instruction within two (2) years after acquiring the school building,
 5 the school building shall be placed on the department's list under
 6 subsection (e). If during the term of the lease the charter school
 7 closes or ceases using the school building for classroom instruction,
 8 the school building shall be placed on the department's list under
 9 subsection (e).

10 (h) During the term of a lease under subsection (g), the charter
 11 school is responsible for the direct expenses related to the school
 12 building leased, including utilities, insurance, maintenance, repairs,
 13 and remodeling. The school corporation is responsible for any debt
 14 incurred for or liens that attached to the school building before the
 15 charter school leased the school building.

16 (i) If a school building appears on the department's list under
 17 subsection (e) for at least forty-eight (48) months, the school
 18 corporation may sell or otherwise dispose of the school building in
 19 any manner the governing body considers appropriate.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 446, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 16 through 17, begin a new paragraph and insert:

"(d) A governing body shall make available for lease to any charter school (as defined in IC 20-24-1-4) any school building owned by the school corporation that:

(1) either:

(A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or

(B) appears on the list compiled by the department under subsection (e); and

(2) was previously used for classroom instruction;

in order for the charter school to conduct classroom instruction.

(e) Each governing body shall inform the department whenever a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and make the list available on the department's Internet website. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list each year before August 31.

(f) If a charter school wants to use a school building on the list created under subsection (e), the charter school shall send a letter of intent to lease the school building to the department. The department shall notify the school corporation of the charter school's intent, and the school corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year. The school corporation shall enter into a lease with the charter school for a term of at least ten (10) years, and, except as provided in subsection (h), the lease may be extended for additional terms of ten (10) years at the discretion of the charter school, if the charter school is not in default under the lease. If during the term of the lease the charter school closes or ceases using the school building for classroom instruction, the school building returns to the control of the school corporation.

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(g) During the term of a lease under subsection (f), the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school leased the school building.

(h) If the governing body of a school corporation that leases a school building to a charter school under subsection (f) wishes to reopen the school building for classroom instruction, the school corporation may recover the building at the end of the lease term after the governing body holds at least two (2) public hearings on the recovery, followed by an affirmative vote by the governing body. The governing body shall ensure that a school building recovered under this subsection is used for classroom instruction for at least the ten (10) years next following the recovery.

(i) If a school building appears on the department's list under subsection (e) for at least twenty-four (24) months, the school corporation may sell or otherwise dispose of the school building in any manner the governing body considers appropriate."

Delete page 2.

and when so amended that said bill do pass.

(Reference is to SB 446 as introduced.)

KRUSE, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 446 be amended to read as follows:

Page 1, line 16, after "lease" insert "**or purchase**".

Page 2, line 14, delete "website." and insert "**web site.**".

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"(f) A school building that appears for the first time on the department's list under subsection (e) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates the school building may be reclaimed during that period for classroom instruction, which must begin not later than one (1) year after the



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school building is reclaimed. If the school building remains unused for classroom instruction one (1) year after being reclaimed, the governing body shall place the school building on the department's list. A governing body may reclaim a school building only one (1) time under this subsection."

Page 2, line 19, delete "(f)" and insert "(g)".

Page 2, line 19, delete "wants" and insert "**wishes**".

Page 2, line 21, delete "to lease the school building".

Page 2, line 25, delete ". The school corporation shall enter into a lease" and insert "**for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1).**".

Page 2, delete lines 26 through 28.

Page 2, line 29, delete "school, if the charter school is not in default under the lease." and insert "**The charter school must begin to use the school building for classroom instruction not later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's list under subsection (e).**".

Page 2, line 32, delete "returns to the control of the school corporation." and insert "**shall be placed on the department's list under subsection (e).**".

Page 2, line 33, delete "(g)" and insert "(h)".

Page 2, line 33, delete "(f)," and insert "(g)".

Page 2, delete lines 39 through 42.

Page 3, delete lines 1 through 5.

Page 3, line 7, delete "twenty-four (24)" and insert "**forty-eight (48)**".

(Reference is to SB 446 as printed February 1, 2011.)

ROGERS

SENATE MOTION

Madam President: I move that Senate Bill 446 be amended to read as follows:

Page 1, line 16, after "(d)" insert "**This subsection does not apply**



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to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity."

(Reference is to SB 446 as printed February 1, 2011.)

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