

FIRST REGULAR SESSION

SENATE BILL NO. 325

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 5, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1392S.011

AN ACT

To repeal section 177.088, RSMo, and to enact in lieu thereof one new section relating to educational facilities.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 177.088, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 177.088, to read as follows:

177.088. 1. As used in this section, the following terms shall mean:

2 (1) "Board", the board of education, board of trustees, board of regents, or
3 board of governors of an educational institution;

4 (2) "Educational institution", any school district, including all community
5 college districts, and any state college or university organized under chapter 174,
6 RSMo.

7 2. The board of any educational institution may enter into agreements as
8 authorized in this section with a not-for-profit corporation formed under the
9 general not-for-profit corporation law of Missouri, chapter 355, RSMo, in order to
10 provide for the acquisition, construction, improvement, extension, repair,
11 remodeling, renovation and financing of sites, buildings, facilities, furnishings
12 and equipment for the use of the educational institution for educational purposes.

13 3. The board may on such terms as it shall approve:

14 (1) Lease from the corporation sites, buildings, facilities, furnishings and
15 equipment which the corporation has acquired or constructed; or

16 (2) Notwithstanding the provisions of this chapter or any other provision
17 of law to the contrary, sell or lease at fair market value, which may be
18 determined by appraisal, to the corporation any existing sites owned by the
19 educational institution, together with any existing buildings and facilities
20 thereon, in order for the corporation to acquire, construct, improve, extend,

21 repair, remodel, renovate, furnish and equip buildings and facilities thereon, and
22 then lease back or purchase such sites, buildings and facilities from the
23 corporation; provided that upon selling or leasing the sites, buildings or facilities,
24 the corporation agrees to enter into a lease for not more than one year but with
25 not more than twenty-five successive options by the educational institution to
26 renew the lease under the same conditions; and provided further that the
27 corporation agrees to convey or sell the sites, buildings or facilities, including any
28 improvements, extensions, renovations, furnishings or equipment, back to the
29 educational institution with clear title at the end of the period of successive
30 one-year options or at any time bonds, notes or other obligations issued by the
31 corporation to pay for the improvements, extensions, renovations, furnishings or
32 equipment have been paid and discharged.

33 4. Any consideration, promissory note or deed of trust which an
34 educational institution receives for selling or leasing property to a not-for-profit
35 corporation pursuant to this section shall be placed in a separate fund or in
36 escrow, and neither the principal or any interest thereon shall be commingled
37 with any other funds of the educational institutions. At such time as the title or
38 deed for property acquired, constructed, improved, extended, repaired, remodeled
39 or renovated under this section is conveyed to the educational institution, the
40 consideration shall be returned to the corporation.

41 5. The board may make rental payments to the corporation under such
42 leases out of its general funds or out of any other available funds, provided that
43 in no event shall the educational institution become indebted in an amount
44 exceeding in any year the income and revenue of the educational institution for
45 such year plus any unencumbered balances from previous years.

46 6. Any bonds, notes and other obligations issued by a corporation to pay
47 for the acquisition, construction, improvements, extensions, repairs, remodeling
48 or renovations of sites, buildings and facilities, pursuant to this section, may be
49 secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities
50 and a pledge of the revenues received from the rental thereof to the educational
51 institution. Such bonds, notes and other obligations issued by a corporation shall
52 not be a debt of the educational institution and the educational institution shall
53 not be liable thereon, and in no event shall such bonds, notes or other obligations
54 be payable out of any funds or properties other than those acquired for the
55 purposes of this section, and such bonds, notes and obligations shall not
56 constitute an indebtedness of the educational institution within the meaning of

57 any constitutional or statutory debt limitation or restriction.

58 7. The interest on such bonds, notes and other obligations of the
59 corporation and the income therefrom shall be exempt from taxation by the state
60 and its political subdivisions, except for death and gift taxes on transfers. Sites,
61 buildings, facilities, furnishings and equipment owned by a corporation in
62 connection with any project pursuant to this section shall be exempt from
63 taxation.

64 8. The board may make all other contracts or agreements with the
65 corporation necessary or convenient in connection with any project pursuant to
66 this section. The corporation shall comply with sections 290.210 to 290.340,
67 RSMo.

68 9. Notice that the board is considering a project pursuant to this section
69 shall be given by publication in a newspaper published within the county in
70 which all or a part of the educational institution is located which has general
71 circulation within the area of the educational institution, once a week for two
72 consecutive weeks, the last publication to be at least seven days prior to the date
73 of the meeting of the board at which such project will be considered and acted
74 upon.

75 10. Provisions of other law to the contrary notwithstanding, the board
76 may refinance any lease purchase agreement that satisfies at least one of the
77 conditions specified in subsection 6 of section 165.011, RSMo, for the purpose of
78 payment on any lease with the corporation under this section for sites, buildings,
79 facilities, furnishings or equipment which the corporation has acquired or
80 constructed, but such refinance shall not extend the date of maturity of any
81 obligation, and the refinancing obligation shall not exceed the amount necessary
82 to pay or provide for the payment of the principal of the outstanding obligations
83 to be refinanced, together with the interest accrued thereon to the date of
84 maturity or redemption of such obligations and any premium which may be due
85 under the terms of such obligations and any amounts necessary for the payments
86 of costs and expenses related to issuing such refunding obligations and to fund
87 a capital projects reserve fund for the obligations.

88 11. Provisions of other law to the contrary notwithstanding, payments
89 made from any source by a school district, after the latter of July 1, 1994, or July
90 12, 1994, that result in the transfer of the title of real property to the school
91 district, other than those payments made from the capital projects fund, shall be
92 deducted as an adjustment to the funds payable to the district pursuant to section

93 163.031, RSMo, beginning in the year following the transfer of title to the district,
94 as determined by the department of elementary and secondary education. No
95 district with modular buildings leased in fiscal year 2004, with the lease
96 payments made from the incidental fund and that initiates the transfer of title
97 to the district after fiscal year 2007, shall have any adjustment to the funds
98 payable to the district under section 163.031, RSMo, as a result of the transfer
99 of title.

100 **12. Notwithstanding provisions of this section to the contrary,**
101 **the board of education of any school district may enter into agreements**
102 **with the county in which the school district is located, or with a city,**
103 **town, or village wholly or partially located within the boundaries of the**
104 **school district, in order to provide for the acquisition, construction,**
105 **improvement, extension, repair, remodeling, renovation, and financing**
106 **of sites, buildings, facilities, furnishings, and equipment for the use of**
107 **the school district for educational purposes. Such an agreement may**
108 **provide for the present or future acquisition of an ownership interest**
109 **in such facilities by the school district, by lease, lease purchase**
110 **agreement, option to purchase agreement, or similar provisions, and**
111 **may provide for a joint venture between the school district and other**
112 **entity or entities that are parties to such an agreement providing for**
113 **the sharing of the costs of acquisition, construction, repair,**
114 **maintenance, and operation of such facilities. The school district may**
115 **wholly own such facilities, or may acquire a partial ownership interest**
116 **along with the county, city, town, or village with which the agreement**
117 **was executed.**

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