
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 1406 **Hearing Date:** June 6, 2018
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Version: May 7, 2018
Urgency: No **Fiscal:** No
Consultant: Ian Johnson

Subject: School facilities: leases of real property.

SUMMARY

This bill extends the maximum allowable term that a school district may enter for lease-leaseback and joint occupancy agreements to 99 years.

BACKGROUND

Existing law:

- 1) Generally limits the term of any lease or agreement entered into by a school district to no more than 40 years.
- 2) Specifies that the lease of any real property by the governing board of a school district shall not exceed a term of 99 years, and is exempt from various statutory requirements, if all of the following conditions are met:
 - a) The property is leased to another local governmental agency, or to a nonprofit corporation that is organized for the purpose of assisting one or more local governmental agencies in obtaining financing.
 - b) As part of that same lease transaction, the school district simultaneously leases back, for a term that is not substantially less than the term of that lease, the same property that is the subject of the transaction.
 - c) The financing proceeds obtained by the school district are expended solely for capital outlay purposes, including the acquisition of real property for intended use as a schoolsite and the construction, reconstruction, and renovation of school facilities.
- 3) Allows any school district to enter into leases and agreements relating to real property and buildings to be used jointly by the district and any private person, firm, local governmental agency, or corporation for a term not to exceed 66 years.

ANALYSIS

This bill extends the maximum allowable term that a school district may enter for lease-leaseback and joint occupancy agreements to 99 years.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Current law authorizes any school district to enter into leases and agreements relating to real property and buildings to be used jointly by the district and another entity. Current law limits the term of such a lease or agreement to no more than 66 years; however, leases and agreements in the Civil Code allow terms of no more than 99 years. This shorter time cap limits the ability to develop workforce housing on available and unoccupied sites for teachers, nurses, and other school district staff, while also limiting school districts from establishing sustainable income streams.

The lack of workforce housing near employment opportunities forces Californians to live in overcrowded housing near their jobs or in housing far away with longer commute times. This situation leads to decreased quality of life, increased income inequality, and lack of progress towards the state’s climate change goals. The production of affordable workforce housing must increase in order to keep up with California’s robust job growth and housing demand.

AB 1406 aligns the Education Code with the Civil Code to authorize school boards to enter in joint-occupancy leases for up to 99 years. This will increase the feasibility of additional workforce housing projects on unused land, create a steady income stream, and diversify the projects that school districts can obtain by entering into joint-occupancy agreements.”

- 2) ***Lease-leaseback and lease-to-own.*** Lease-leaseback is a process whereby a governing board of a school district may, through a competitive bidding process, rent district property for a minimum of \$1 a year to any person, firm, or corporation. The person, firm, or corporation constructs the school building and rents the facility back to the school district. At the end of the lease, the district resumes title to the building and site.

In a lease-to-own agreement, the governing board of a school district may, through a competitive bidding process, enter into a contract with a person, firm, or corporation to construct the building on a designated site and lease the property to the school district. The school district gets the title at the end of the lease.

- 3) ***Joint occupancy and joint use.*** Existing law contains two sections that authorize joint occupancy. Under the joint occupancy law, a district may enter into long-term leases (up to 66 years) for the use of district-owned real property and buildings by a private person, firm, or local governmental agency. A district may allow a private entity to build on or make alterations of existing property. If the school district will be using the facilities, the buildings must comply with the Field Act. Under the joint-use sections of the law, a district may rent or lease vacant classrooms or other space in school buildings to other school districts, educational agencies, except private educational institutions, governmental units, nonprofit organizations, community agencies, professional agencies, commercial and non-commercial firms, corporations, partnerships, businesses, and individuals for no more than five years.

SUPPORT

None received

OPPOSITION

None received

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