

**As Introduced**

**127th General Assembly  
Regular Session  
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**S. B. No. 333**

**Senator Roberts**

**Cosponsors: Senators Fedor, Mason, Miller, D., Morano, Sawyer, Miller, R.**

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**A B I L L**

To amend sections 3313.41, 3314.051, and 3318.08 of 1  
the Revised Code regarding the sale of school 2  
district property to community schools. 3

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

**Section 1.** That sections 3313.41, 3314.051, and 3318.08 of 4  
the Revised Code be amended to read as follows: 5

**Sec. 3313.41.** (A) Except as provided in divisions (C), (D), 6  
and (F), ~~and (G)~~ of this section, when a board of education 7  
decides to dispose of real or personal property that it owns in 8  
its corporate capacity and that exceeds in value ten thousand 9  
dollars, it shall sell the property at public auction, after 10  
giving at least thirty days' notice of the auction by publication 11  
in a newspaper of general circulation or by posting notices in 12  
five of the most public places in the school district in which the 13  
property, if it is real property, is situated, or, if it is 14  
personal property, in the school district of the board of 15  
education that owns the property. The board may offer real 16  
property for sale as an entire tract or in parcels. 17

(B) When the board of education has offered real or personal 18  
property for sale at public auction at least once pursuant to 19

division (A) of this section, and the property has not been sold, 20  
the board may sell it at a private sale. Regardless of how it was 21  
offered at public auction, at a private sale, the board shall, as 22  
it considers best, sell real property as an entire tract or in 23  
parcels, and personal property in a single lot or in several lots. 24

(C) If a board of education decides to dispose of real or 25  
personal property that it owns in its corporate capacity and that 26  
exceeds in value ten thousand dollars, it may sell the property to 27  
the adjutant general; to any subdivision or taxing authority as 28  
respectively defined in divisions (A) and (C) of section 5705.01 29  
of the Revised Code, township park district, board of park 30  
commissioners established under Chapter 755. of the Revised Code, 31  
or park district established under Chapter 1545. of the Revised 32  
Code; to a wholly or partially tax-supported university, 33  
university branch, or college; or to the board of trustees of a 34  
school district library, upon such terms as are agreed upon. The 35  
sale of real or personal property to the board of trustees of a 36  
school district library is limited, in the case of real property, 37  
to a school district library within whose boundaries the real 38  
property is situated, or, in the case of personal property, to a 39  
school district library whose boundaries lie in whole or in part 40  
within the school district of the selling board of education. 41

(D) When a board of education decides to trade as a part or 42  
an entire consideration, an item of personal property on the 43  
purchase price of an item of similar personal property, it may 44  
trade the same upon such terms as are agreed upon by the parties 45  
to the trade. 46

(E) The president and the treasurer of the board of education 47  
shall execute and deliver deeds or other necessary instruments of 48  
conveyance to complete any sale or trade under this section. 49

(F) When a board of education has identified a parcel of real 50  
property that it determines is needed for school purposes, the 51

board may, upon a majority vote of the members of the board, 52  
acquire that property by exchanging real property that the board 53  
owns in its corporate capacity for the identified real property or 54  
by using real property that the board owns in its corporate 55  
capacity as part or an entire consideration for the purchase price 56  
of the identified real property. Any exchange or acquisition made 57  
pursuant to this division shall be made by a conveyance executed 58  
by the president and the treasurer of the board. 59

~~(G)(1) When a school district board of education decides to 60  
dispose of real property suitable for use as classroom space, 61  
prior to disposing of that property under divisions (A) to (F) of 62  
this section, it shall first offer that property for sale to the 63  
governing authorities of the start up community schools 64  
established under Chapter 3314. of the Revised Code located within 65  
the territory of the school district, at a price that is not 66  
higher than the appraised fair market value of that property. If 67  
more than one community school governing authority accepts the 68  
offer made by the school district board, the board shall sell the 69  
property to the governing authority that accepted the offer first 70  
in time. If no community school governing authority accepts the 71  
offer within sixty days after the offer is made by the school 72  
district board, the board may dispose of the property in the 73  
applicable manner prescribed under divisions (A) to (F) of this 74  
section. 75~~

~~(2) When a school district board of education has not used 76  
real property suitable for classroom space for academic 77  
instruction, administration, storage, or any other educational 78  
purpose for one full school year and has not adopted a resolution 79  
outlining a plan for using that property for any of those purposes 80  
within the next three school years, it shall offer that property 81  
for sale to the governing authorities of the start up community 82  
schools established under Chapter 3314. of the Revised Code 83~~

~~located within the territory of the school district, at a price 84  
that is not higher than the appraised fair market value of that 85  
property. If more than one community school governing authority 86  
accepts the offer made by the school district board, the board 87  
shall sell the property to the governing authority that accepted 88  
the offer first in time. 89~~

(H) When a school district board of education has property 90  
that the board, by resolution, finds is not needed for school 91  
district use, is obsolete, or is unfit for the use for which it 92  
was acquired, the board may donate that property in accordance 93  
with this division if the fair market value of the property is, in 94  
the opinion of the board, two thousand five hundred dollars or 95  
less. 96

The property may be donated to an eligible nonprofit 97  
organization that is located in this state and is exempt from 98  
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 99  
Before donating any property under this division, the board shall 100  
adopt a resolution expressing its intent to make unneeded, 101  
obsolete, or unfit-for-use school district property available to 102  
these organizations. The resolution shall include guidelines and 103  
procedures the board considers to be necessary to implement the 104  
donation program and shall indicate whether the school district 105  
will conduct the donation program or the board will contract with 106  
a representative to conduct it. If a representative is known when 107  
the resolution is adopted, the resolution shall provide contact 108  
information such as the representative's name, address, and 109  
telephone number. 110

The resolution shall include within its procedures a 111  
requirement that any nonprofit organization desiring to obtain 112  
donated property under this division shall submit a written notice 113  
to the board or its representative. The written notice shall 114  
include evidence that the organization is a nonprofit organization 115

that is located in this state and is exempt from federal income 116  
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 117  
the organization's primary purpose; a description of the type or 118  
types of property the organization needs; and the name, address, 119  
and telephone number of a person designated by the organization's 120  
governing board to receive donated property and to serve as its 121  
agent. 122

After adoption of the resolution, the board shall publish, in 123  
a newspaper of general circulation in the school district, notice 124  
of its intent to donate unneeded, obsolete, or unfit-for-use 125  
school district property to eligible nonprofit organizations. The 126  
notice shall include a summary of the information provided in the 127  
resolution and shall be published at least twice. The second and 128  
any subsequent notice shall be published not less than ten nor 129  
more than twenty days after the previous notice. A similar notice 130  
also shall be posted continually in the board's office, and, if 131  
the school district maintains a web site on the internet, the 132  
notice shall be posted continually at that web site. 133

The board or its representatives shall maintain a list of all 134  
nonprofit organizations that notify the board or its 135  
representative of their desire to obtain donated property under 136  
this division and that the board or its representative determines 137  
to be eligible, in accordance with the requirements set forth in 138  
this section and in the donation program's guidelines and 139  
procedures, to receive donated property. 140

The board or its representative also shall maintain a list of 141  
all school district property the board finds to be unneeded, 142  
obsolete, or unfit for use and to be available for donation under 143  
this division. The list shall be posted continually in a 144  
conspicuous location in the board's office, and, if the school 145  
district maintains a web site on the internet, the list shall be 146  
posted continually at that web site. An item of property on the 147

list shall be donated to the eligible nonprofit organization that 148  
first declares to the board or its representative its desire to 149  
obtain the item unless the board previously has established, by 150  
resolution, a list of eligible nonprofit organizations that shall 151  
be given priority with respect to the item's donation. Priority 152  
may be given on the basis that the purposes of a nonprofit 153  
organization have a direct relationship to specific school 154  
district purposes of programs provided or administered by the 155  
board. A resolution giving priority to certain nonprofit 156  
organizations with respect to the donation of an item of property 157  
shall specify the reasons why the organizations are given that 158  
priority. 159

Members of the board shall consult with the Ohio ethics 160  
commission, and comply with Chapters 102. and 2921. of the Revised 161  
Code, with respect to any donation under this division to a 162  
nonprofit organization of which a board member, any member of a 163  
board member's family, or any business associate of a board member 164  
is a trustee, officer, board member, or employee. 165

**Sec. 3314.051.** (A) When the governing authority of a 166  
community school that acquired real property from a school 167  
district pursuant to division (G)(2) of section 3313.41 of the 168  
Revised Code, as it existed prior to the effective date of this 169  
amendment, decides to dispose of that property, it first shall 170  
offer that property for sale to the school district board of 171  
education from which it acquired the property, at a price that is 172  
not higher than the appraised fair market value of that property. 173  
If the district board does not accept the offer within sixty days 174  
after the offer is made, the community school may dispose of the 175  
property in another lawful manner. 176

(B) When a community school that acquired real property from 177  
a school district pursuant to division (G)(2) of section 3313.41 178

of the Revised Code, as it existed prior to the effective date of 179  
this amendment, permanently closes, in distributing the school's 180  
assets under section 3314.074 of the Revised Code, that property 181  
first shall be offered for sale to the school district board of 182  
education from which the community school acquired the property, 183  
at a price that is not higher than the appraised fair market value 184  
of that property. If the district board does not accept the offer 185  
within sixty days after the offer is made, the property may be 186  
disposed in another lawful manner. 187

**Sec. 3318.08.** Except in the case of a joint vocational school 188  
district that receives assistance under sections 3318.40 to 189  
3318.45 of the Revised Code, if the requisite favorable vote on 190  
the election is obtained, or if the school district board has 191  
resolved to apply the proceeds of a property tax levy or the 192  
proceeds of an income tax, or a combination of proceeds from such 193  
taxes, as authorized in section 3318.052 of the Revised Code, the 194  
Ohio school facilities commission, upon certification to it of 195  
either the results of the election or the resolution under section 196  
3318.052 of the Revised Code, shall enter into a written agreement 197  
with the school district board for the construction and sale of 198  
the project. In the case of a joint vocational school district 199  
that receives assistance under sections 3318.40 to 3318.45 of the 200  
Revised Code, if the school district board of education and the 201  
school district electors have satisfied the conditions prescribed 202  
in division (D)(1) of section 3318.41 of the Revised Code, the 203  
commission shall enter into an agreement with the school district 204  
board for the construction and sale of the project. In either 205  
case, the agreement shall include, but need not be limited to, the 206  
following provisions: 207

(A) The sale and issuance of bonds or notes in anticipation 208  
thereof, as soon as practicable after the execution of the 209  
agreement, in an amount equal to the school district's portion of 210

the basic project cost, including any securities authorized under 211  
division (J) of section 133.06 of the Revised Code and dedicated 212  
by the school district board to payment of the district's portion 213  
of the basic project cost of the project; provided, that if at 214  
that time the county treasurer of each county in which the school 215  
district is located has not commenced the collection of taxes on 216  
the general duplicate of real and public utility property for the 217  
year in which the controlling board approved the project, the 218  
school district board shall authorize the issuance of a first 219  
installment of bond anticipation notes in an amount specified by 220  
the agreement, which amount shall not exceed an amount necessary 221  
to raise the net bonded indebtedness of the school district as of 222  
the date of the controlling board's approval to within five 223  
thousand dollars of the required level of indebtedness for the 224  
preceding year. In the event that a first installment of bond 225  
anticipation notes is issued, the school district board shall, as 226  
soon as practicable after the county treasurer of each county in 227  
which the school district is located has commenced the collection 228  
of taxes on the general duplicate of real and public utility 229  
property for the year in which the controlling board approved the 230  
project, authorize the issuance of a second and final installment 231  
of bond anticipation notes or a first and final issue of bonds. 232

The combined value of the first and second installment of 233  
bond anticipation notes or the value of the first and final issue 234  
of bonds shall be equal to the school district's portion of the 235  
basic project cost. The proceeds of any such bonds shall be used 236  
first to retire any bond anticipation notes. Otherwise, the 237  
proceeds of such bonds and of any bond anticipation notes, except 238  
the premium and accrued interest thereon, shall be deposited in 239  
the school district's project construction fund. In determining 240  
the amount of net bonded indebtedness for the purpose of fixing 241  
the amount of an issue of either bonds or bond anticipation notes, 242  
gross indebtedness shall be reduced by moneys in the bond 243



retirement fund only to the extent of the moneys therein on the 244  
first day of the year preceding the year in which the controlling 245  
board approved the project. Should there be a decrease in the tax 246  
valuation of the school district so that the amount of 247  
indebtedness that can be incurred on the tax duplicates for the 248  
year in which the controlling board approved the project is less 249  
than the amount of the first installment of bond anticipation 250  
notes, there shall be paid from the school district's project 251  
construction fund to the school district's bond retirement fund to 252  
be applied against such notes an amount sufficient to cause the 253  
net bonded indebtedness of the school district, as of the first 254  
day of the year following the year in which the controlling board 255  
approved the project, to be within five thousand dollars of the 256  
required level of indebtedness for the year in which the 257  
controlling board approved the project. The maximum amount of 258  
indebtedness to be incurred by any school district board as its 259  
share of the cost of the project is either an amount that will 260  
cause its net bonded indebtedness, as of the first day of the year 261  
following the year in which the controlling board approved the 262  
project, to be within five thousand dollars of the required level 263  
of indebtedness, or an amount equal to the required percentage of 264  
the basic project costs, whichever is greater. All bonds and bond 265  
anticipation notes shall be issued in accordance with Chapter 133. 266  
of the Revised Code, and notes may be renewed as provided in 267  
section 133.22 of the Revised Code. 268

(B) The transfer of such funds of the school district board 269  
available for the project, together with the proceeds of the sale 270  
of the bonds or notes, except premium, accrued interest, and 271  
interest included in the amount of the issue, to the school 272  
district's project construction fund; 273

(C) For all school districts except joint vocational school 274  
districts that receive assistance under sections 3318.40 to 275

3318.45 of the Revised Code, the following provisions as	276
applicable:	277
(1) If section 3318.052 of the Revised Code applies, the	278
earmarking of the proceeds of a tax levied under section 5705.21	279
of the Revised Code for general permanent improvements or under	280
section 5705.218 of the Revised Code for the purpose of permanent	281
improvements, or the proceeds of a school district income tax	282
levied under Chapter 5748. of the Revised Code, or the proceeds	283
from a combination of those two taxes, in an amount to pay all or	284
part of the service charges on bonds issued to pay the school	285
district portion of the project and an amount equivalent to all or	286
part of the tax required under division (B) of section 3318.05 of	287
the Revised Code;	288
(2) If section 3318.052 of the Revised Code does not apply,	289
one of the following:	290
(a) The levy of the tax authorized at the election for the	291
payment of maintenance costs, as specified in division (B) of	292
section 3318.05 of the Revised Code;	293
(b) If the school district electors have approved a	294
continuing tax for general permanent improvements under section	295
5705.21 of the Revised Code and that tax can be used for	296
maintenance, the earmarking of an amount of the proceeds from such	297
tax for maintenance of classroom facilities as specified in	298
division (B) of section 3318.05 of the Revised Code;	299
(c) If, in lieu of the tax otherwise required under division	300
(B) of section 3318.05 of the Revised Code, the commission has	301
approved the transfer of money to the maintenance fund in	302
accordance with section 3318.051 of the Revised Code, a	303
requirement that the district board comply with the provisions	304
<u>prescribed under</u> that section. The district board may rescind the	305
provision prescribed under division (C)(2)(c) of this section only	306

so long as the electors of the district have approved, in 307  
accordance with section 3318.063 of the Revised Code, the levy of 308  
a tax for the maintenance of the classroom facilities acquired 309  
under the district's project and that levy continues to be 310  
collected as approved by the electors. 311

(D) For joint vocational school districts that receive 312  
assistance under sections 3318.40 to 3318.45 of the Revised Code, 313  
provision for deposit of school district moneys dedicated to 314  
maintenance of the classroom facilities acquired under those 315  
sections as prescribed in section 3318.43 of the Revised Code; 316

(E) Dedication of any local donated contribution as provided 317  
for under section 3318.084 of the Revised Code, including a 318  
schedule for depositing such moneys applied as an offset of the 319  
district's obligation to levy the tax described in division (B) of 320  
section 3318.05 of the Revised Code as required under division 321  
(D)(2) of section 3318.084 of the Revised Code; 322

(F) Ownership of or interest in the project during the period 323  
of construction, which shall be divided between the commission and 324  
the school district board in proportion to their respective 325  
contributions to the school district's project construction fund; 326

(G) Maintenance of the state's interest in the project until 327  
any obligations issued for the project under section 3318.26 of 328  
the Revised Code are no longer outstanding; 329

(H) The insurance of the project by the school district from 330  
the time there is an insurable interest therein and so long as the 331  
state retains any ownership or interest in the project pursuant to 332  
division (F) of this section, in such amounts and against such 333  
risks as the commission shall require; provided, that the cost of 334  
any required insurance until the project is completed shall be a 335  
part of the basic project cost; 336

(I) The certification by the director of budget and 337

management that funds are available and have been set aside to 338  
meet the state's share of the basic project cost as approved by 339  
the controlling board pursuant to either section 3318.04 or 340  
division (B)(1) of section 3318.41 of the Revised Code; 341

(J) Authorization of the school district board to advertise 342  
for and receive construction bids for the project, for and on 343  
behalf of the commission, and to award contracts in the name of 344  
the state subject to approval by the commission; 345

(K) Provisions for the disbursement of moneys from the school 346  
district's project account upon issuance by the commission or the 347  
commission's designated representative of vouchers for work done 348  
to be certified to the commission by the treasurer of the school 349  
district board; 350

(L) Disposal of any balance left in the school district's 351  
project construction fund upon completion of the project; 352

(M) Limitations upon use of the project or any part of it so 353  
long as any obligations issued to finance the project under 354  
section 3318.26 of the Revised Code are outstanding; 355

(N) Provision for vesting the state's interest in the project 356  
to the school district board when the obligations issued to 357  
finance the project under section 3318.26 of the Revised Code are 358  
outstanding; 359

(O) Provision for deposit of an executed copy of the 360  
agreement in the office of the commission; 361

(P) Provision for termination of the contract and release of 362  
the funds encumbered at the time of the conditional approval, if 363  
the proceeds of the sale of the bonds of the school district board 364  
are not paid into the school district's project construction fund 365  
and if bids for the construction of the project have not been 366  
taken within such period after the execution of the agreement as 367  
may be fixed by the commission; 368

(Q) Provision for the school district to maintain the project 369  
in accordance with a plan approved by the commission; 370

(R)(1) For all school districts except a district undertaking 371  
a project under section 3318.38 of the Revised Code or a joint 372  
vocational school district undertaking a project under sections 373  
3318.40 to 3318.45 of the Revised Code, provision that all state 374  
funds reserved and encumbered to pay the state share of the cost 375  
of the project pursuant to section 3318.03 of the Revised Code be 376  
spent on the construction or acquisition of the project prior to 377  
the expenditure of any funds provided by the school district to 378  
pay for its share of the project cost, unless the school district 379  
certifies to the commission that expenditure by the school 380  
district is necessary to maintain the tax-exempt status of notes 381  
or bonds issued by the school district to pay for its share of the 382  
project cost or to comply with applicable temporary investment 383  
periods or spending exceptions to rebate as provided for under 384  
federal law in regard to those notes or bonds, in which cases, the 385  
school district may commit to spend, or spend, a portion of the 386  
funds it provides; 387

(2) For a school district undertaking a project under section 388  
3318.38 of the Revised Code or a joint vocational school district 389  
undertaking a project under sections 3318.40 to 3318.45 of the 390  
Revised Code, provision that the state funds reserved and 391  
encumbered and the funds provided by the school district to pay 392  
the basic project cost of any segment of the project, or of the 393  
entire project if it is not divided into segments, be spent on the 394  
construction and acquisition of the project simultaneously in 395  
proportion to the state's and the school district's respective 396  
shares of that basic project cost as determined under section 397  
3318.032 of the Revised Code or, if the district is a joint 398  
vocational school district, under section 3318.42 of the Revised 399  
Code. 400

(S) A provision stipulating that the commission may prohibit 401  
the district from proceeding with any project if the commission 402  
determines that the site is not suitable for construction 403  
purposes. The commission may perform soil tests in its 404  
determination of whether a site is appropriate for construction 405  
purposes. 406

(T) A provision stipulating that, unless otherwise authorized 407  
by the commission, any contingency reserve portion of the 408  
construction budget prescribed by the commission shall be used 409  
only to pay costs resulting from unforeseen job conditions, to 410  
comply with rulings regarding building and other codes, to pay 411  
costs related to design clarifications or corrections to contract 412  
documents, and to pay the costs of settlements or judgments 413  
related to the project as provided under section 3318.086 of the 414  
Revised Code. 415

~~(U) Provision stipulating that for continued release of 416  
project funds the school district board shall comply with section 417  
3313.41 of the Revised Code throughout the project and shall 418  
notify the department of education and the Ohio community school 419  
association when the board plans to dispose of facilities by sale 420  
under that section. 421~~

~~(V) Provision that the commission shall not approve a 422  
contract for demolition of a facility until the school district 423  
board has complied with section 3313.41 of the Revised Code 424  
relative to that facility, unless demolition of that facility is 425  
to clear a site for construction of a replacement facility 426  
included in the district's project. 427~~

**Section 2.** That existing sections 3313.41, 3314.051, and 428  
3318.08 of the Revised Code are hereby repealed. 429