2013 DRAFTING REQUEST

Bill

Received:	**9/19/2013**	Received By:	**tkuczens**
Wanted:	**As time permits**	Same as LRB:	
For:	**Joe Sanfelippo (608) 266-0620**	By/Representing:	**Josh Hoisington**
May Contact:		Drafter:	**tkuczens**
Subject:	**Education - MPS**	Addl. Drafters:	
		Extra Copies:	**pg, ffk**

Submit via email: **YES**
Requester's email: **Rep.Sanfelippo@legis.wisconsin.gov**
Carbon copy (CC) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Authorize the City of Milwaukee to sell eligible school facilities to eligible buyers

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Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	tkuczens 9/20/2013	evinz 9/20/2013	jmurphy 9/20/2013	_____ _____			
/1				_____ _____	lparisi 9/20/2013	mbarman 9/23/2013	Local

FE Sent For:

@ intro.

<END>

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/?	tkuczens	1 elv 9/20/13	Jm 9/20	Jm 9/20			

FE Sent For:

<END>

Kuczenski, Tracy

From: Kuczenski, Tracy
Sent: Thursday, September 19, 2013 1:49 PM
To: Hoisington, Joshua
Cc: Bennett, Gary
Subject: RE: Sale of Milwaukee School Buildings Bill

Hi Josh –

The LRB number on Rep. Sanfelippo's companion bill is 3194.

Tracy

Tracy K. Kuczenski
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
tracy.kuczenski@legis.wisconsin.gov
(608) 266-9867

From: Hoisington, Joshua
Sent: Thursday, September 19, 2013 12:05 PM
To: Kuczenski, Tracy
Subject: Sale of Milwaukee School Buildings Bill

Hi Tracy,

We will be offering the assembly version of Senator Darling's bill and would like an LRB # for the assembly bill to include in the co-sponsorship that will be going out. Would you please get us and LRB # as soon as you are able?

I appreciate your help

Best Regards,

Josh Hoisington
Office of Representative Joe Sanfelippo
15th Assembly District
608.266.0620

3194/1

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–0928/2
TKK:wlj:ph

2013 BILL

9/20/13 Today

regen

AN ACT *to renumber and amend* 119.12 (6); *to amend* 119.46, 119.60 (1) and 119.60 (2); and *to create* 119.61 of the statutes; **relating to:** authorizing the city of Milwaukee to sell eligible school facilities to eligible purchasers.

Analysis by the Legislative Reference Bureau

Under current law, the city of Milwaukee (city) owns the school buildings and school grounds of the Milwaukee Public School (MPS) District. Generally, city–owned property used for school purposes may be sold only upon the written request of the MPS board and if the Milwaukee Common Council adopts a resolution approving the sale. However, if the common council finds that city–owned property used for school purposes has been unused or underutilized for at least 12 consecutive months, or if the MPS board has determined by resolution prior to January 1, 2011, that any city–owned property used for school purposes is surplus to the needs of the district, the common council may sell or lease that property if it adopts a resolution to do so. If the city sells or leases property identified as underutilized or surplus, the net proceeds must be deposited into the school operations fund, which is used to pay the principal, fees, and premiums due on bonds issued for school facilities.

This bill creates an additional mechanism for the sale of certain eligible, city–owned school buildings. The bill defines an eligible school building as an MPS school building that has been either 1) designated as surplus, underutilized, or vacant on any resolution adopted by the MPS board within the previous five years, provided the board is unable to demonstrate that the school building is no longer surplus, underutilized, or vacant; or 2) unused or satisfies any condition qualifying

the building as underutilized for 12 consecutive months. The bill defines an underutilized school building as a school building that satisfies any of the following: a) less than 40 percent of the square footage of the school is used for the instruction of pupils on a daily, school day basis; b) with limited exceptions, the school is not staffed on a full–time basis by a principal and instructional staff assigned exclusively to the school; or c) the number of hours of pupil instruction offered in the school building in the previous school year was less than 80 percent of the number of hours of pupil instruction required to be offered by MPS. The bill requires the MPS board to annually prepare a detailed inventory of all school buildings in MPS and submit that inventory to the city clerk, the Department of Public Instruction, and the Joint Committee on Finance. The inventory must include the size and capacity of each school building and whether the building has ever been designated as surplus. The city clerk must publish information about eligible school buildings on the city's Web page.

Under the bill, once a school building has qualified as an eligible school building, only an education operator, with certain exceptions, may submit a letter of interest to the common council to purchase the building. The bill defines an education operator as any of the following: 1) the operator of a charter school established by the common council of the city, the chancellor of the University of Wisconsin–Milwaukee, the chancellor of the University of Wisconsin–Parkside, or the Milwaukee Area Technical College district board; 2) the operator of a private school; 3) the operator of a charter school that is not an instrumentality of MPS; 4) an individual or group that is pursuing a contract with an entity under item 1 to operate a school as a charter school; 5) a person that is pursuing a contract with MPS to operate a school as a charter school that is not an instrumentality of the school district; or 6) an entity or organization that has entered into a written agreement with any of the education operators identified in items 1 to 5 to purchase or lease a building within which that education operator will operate a school.

The bill requires the city to update its Web page when a letter of interest has been submitted and to solicit additional letters of intent for a period of 28 days. If more than one education operator submits a letter of interest, the common council must initiate a request–for–proposal process and select a committee to select the most suitable eligible buyer. If a building qualifies as an eligible school building for 48 consecutive months, any person may submit a letter of interest to the common council. Under the bill, the common council must, in a timely manner, negotiate a reasonable purchase price and terms for the purchase with the selected buyer. The bill specifies that a reasonable purchase price must be based upon the price paid for other comparable school buildings sold by the city within the previous five years or on an appraisal of the eligible school building in which comparable properties are compared.

Under current law, the city attorney also serves as the legal advisor for the board. Current law permits the board to retain a separate attorney to represent the board under specified circumstances: if the board determines that the board requires specialized legal expertise; if the city attorney does not have sufficient staff to represent the interests of the board; or if a conflict of interest exists. This bill requires

the board to retain a separate attorney if the mayor, the common council, the city attorney, or the board determines that any of the specified circumstances exist.

For further information see the ***local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 119.12 (6) of the statutes is renumbered 119.12 (6) (a) (intro.) and
2 amended to read:

3 119.12 **(6)** (a) (intro.) The city attorney of the city shall be the legal adviser of
4 and attorney for the board, except that the board ~~may~~ shall retain an attorney to
5 represent the board in any matter if any of the following applies:

6 1. The mayor, the common council, the city attorney, or the board determines
7 that ~~it~~ the board requires specialized legal expertise not possessed by the city
8 attorney~~, the~~.

9 2. The mayor, the common council, the city attorney, or the board determines
10 that the city attorney does not have sufficient staff to adequately represent the
11 interests of the board ~~or~~.

12 3. The mayor, the common council, the city attorney, or the board determines
13 that a conflict of interest exists.

14 (b) The city attorney shall notify the board as soon as a determination is made
15 under par. (a) that the city attorney is unable to represent the board. The board shall
16 provide the city attorney with reasonable notice of any board meeting at which the
17 board will consider retention of an attorney.

18 **SECTION 2.** 119.46 of the statutes is amended to read:

19 **119.46 Taxes for school operations fund. (1)** As part of the budget
20 transmitted annually to the common council under s. 119.16 (8) (b), the board shall

report the amount of money required for the ensuing school year to operate all public schools in the city under this chapter, to repair and keep in order school buildings and equipment, to make material improvements to school property, and to purchase necessary additions to school sites. The report shall specify the amount of net proceeds from the sale or lease of city–owned property used for school purposes deposited in the immediately preceding school year into the school operations fund as specified under s. 119.60 (2m) (c) or (5) and the net proceeds from the sale of an eligible school building deposited in the immediately preceding school year into the school operations fund as specified under s. 119.61 (4). The amount included in the report for the purpose of supporting the Milwaukee Parental Choice Program under s. 119.23 shall be reduced by the amount of aid received by the board under s. 121.136 and by the amount specified in the notice received by the board under s. 121.137 (2). The common council shall levy and collect a tax upon all the property subject to taxation in the city, which shall be equal to the amount of money required by the board for the purposes set forth in this subsection, at the same time and in the same manner as other taxes are levied and collected. Such taxes shall be in addition to all other taxes which the city is authorized to levy. The taxes so levied and collected, any other funds provided by law and placed at the disposal of the city for the same purposes, and the moneys deposited in the school operations fund under ~~s.~~ ss. 119.60 (1), (2m) (c), and (5)~~,~~ and 119.61 (4) shall constitute the school operations fund.

(2) If moneys specified in s. 119.60 (1), (2m) (c), or (5) or 119.61 (4) are deposited in the school operations fund, the moneys shall be used to pay the principal due on any bonds issued under s. 66.1333 (5r) (b), to make sinking fund payments with respect to such bonds, to purchase or redeem such bonds, to pay any redemption premium required to be paid when such bonds are redeemed prior to maturity, or to

establish a defeasance escrow account for such bonds in an amount sufficient to provide for the payment of principal, any redemption premium and interest on such bonds when due, whether at maturity or upon prior redemption, and to pay any fees or expenses associated with the establishment of the defeasance escrow account.

SECTION 3. 119.60 (1) of the statutes is amended to read:

119.60 **(1)** Except as provided in sub. (2m) (c) and s. 119.61, if any real property within the city which is used for school purposes is sold, the board shall determine whether the proceeds of the sale are deposited in the school operations fund under s. 119.46 or are deposited in the school construction fund under s. 119.48.

SECTION 4. 119.60 (2) of the statutes is amended to read:

119.60 **(2)** Except as provided in sub. (2m) and s. 119.61, city–owned property used for school purposes shall be sold by the city upon written request of the board if the common council adopts a resolution approving the sale. If, within 12 months after a written request by the board, the city has not disposed of the property, has failed to obtain a written agreement to dispose of the property, or has not provided the board with a written report giving specific reasons, which are not identified by the city attorney as constituting a conflict of interest, for its failure to dispose of the property or to obtain an agreement to dispose of the property, the board may retain a real estate agent to represent the board in its real estate transactions.

SECTION 5. 119.61 of the statutes is created to read:

119.61 Surplus property. (1) In this section:

(a) "Education operator" means any of the following:

1. The operator of a charter school established under s. 118.40 (2r).

2. The operator of a private school.

1 3. The operator of a charter school that is not an instrumentality of the school
2 district, as determined under s. 118.40 (7).
3 4. An individual or group that is pursuing a contract with an entity under s.
4 118.40 (2r) (b) to operate a school as a charter school.
5 5. A person that is pursuing a contract with the board under s. 118.40 (2m) to
6 operate a school as a charter school that is not an instrumentality of the school
7 district.
8 6. An entity or organization that has entered into a written agreement with any
9 of the operators identified in subds. 1. to 5. to purchase or lease a building within
10 which the operator identified in subds. 1. to 5. will operate a school.
11 (b) "Eligible school building" means a school building in the school district
12 operating under this chapter that satisfies any of the following:
13 1. The school building has been designated as surplus, underutilized, or vacant
14 on any resolution adopted within the previous 5 years by the board, and the board
15 is unable to demonstrate that the school building is no longer surplus, underutilized,
16 or vacant.
17 2. The school building has been unused or satisfies any condition qualifying the
18 building as an underutilized school building for a period of 12 consecutive months,
19 including the 12 months preceding the effective date of this subdivision .... [LRB
20 inserts date].
21 (c) "Underutilized school building" means a school building that satisfies any
22 of the following:
23 1. Less than 40 percent of the square footage in the building is used for
24 instruction of pupils on a daily, school day basis.

2. a. Subject to subd. 2. b., the school is not staffed on a full–time basis by a principal and instructional staff assigned exclusively to the school.

b. A school building that is staffed on a full–time basis by instructional staff assigned exclusively to the school is not an underutilized school building under this paragraph if the principal of the school also serves as the principal of another school.

3. The number of hours of pupil instruction offered in the school building in the previous school year was less than 80 percent of the number of hours of pupil instruction required to be scheduled under s. 121.02 (1) (f) 2.

(2) (a) No later than 30 days after the effective date of this paragraph .... [LRB inserts date], and annually thereafter, the board shall prepare an inventory of all school buildings in the school district operating under this chapter. The board shall sort the information in the inventory by the use of the building at the time the report is prepared and shall include all of the following for each school building in the district:

1. The total square footage of and the number of classrooms in the school building.

2. The portion of the total square footage being used for direct pupil instruction.

3. The number of pupils the school building can accommodate and the number of pupils receiving instruction in the school building.

4. The name of the principal and the number of full–time instructional staff assigned to the school.

5. For any school building not being used for direct pupil instruction, the manner in which the school building is being used, including whether the building is vacant or is being used for administration, storage, or professional development.

1 6. The duration over the past 36 months that the school building has been used
2 in the manner identified under subd. 2. or 5.
3 7. Whether the board has designated the school building as surplus,
4 underutilized, or vacant on any resolution adopted by the board within the previous
5 5 years.
6 8. Facility condition index information, including estimated short–term and
7 long–term maintenance costs of the school building.
8 (b) The board shall submit a copy of the inventory required under par. (a) to the
9 city clerk, the department, and the joint committee on finance.
10 (c) In addition to the inventory required under par. (a), the board shall annually
11 notify the city clerk, the department, and the joint committee on finance any time a
12 change is made to the use of a school building.
13 **(3)** No more than 30 days after receipt of the inventory required under sub. (2)
14 (a) or of a notice under sub. (2) (c), the city clerk shall post a public notice on the city's
15 Internet site. The city clerk shall include in the public notice under this subsection
16 the address of and the information specified under sub. (2) (a) 1. and 8. for each school
17 building identified on the inventory under sub. (2) (a), or on the notice under sub. (2)
18 (c), that is an eligible school building. The city clerk shall include in the public notice
19 a request for and instructions for submitting letters of interest from persons
20 interested in purchasing an eligible school building.
21 **(4)** (a) The common council may designate a person to act as the agent of the
22 city with respect to the sale of an eligible school building. Except as provided in par.
23 (e), only education operators may purchase an eligible school building. An education
24 operator may submit a letter of interest as provided in the public notice under sub.

1 (3) to notify the common council or its agent of its interest in purchasing an eligible
2 school building.

3 (b) Upon receipt of a letter of interest under par. (a), the city clerk shall update
4 that portion of the city's Internet site containing information about the eligible school
5 building to indicate that a letter of interest has been received and that other
6 interested education operators may, within 28 days from the date of the update,
7 submit a letter of interest to notify the common council or its agent of its interest in
8 purchasing the eligible school building. If, at the end of the 28–day period, no other
9 letters of interest in purchasing the eligible school building have been received, the
10 city shall proceed under par. (c). If, within the 28–day period, one or more other
11 letters of interest in purchasing the eligible school building have been received, the
12 city shall proceed under par. (d).

13 (c) Except as provided in par. (d), no later than the first business day after the
14 end of the 28–day period under this par. (b), the common council or its agent shall
15 do all of the following:

16 1. Determine whether the prospective buyer is an education operator under
17 sub. (1) (a).

18 2. Make information about the eligible school building available and show the
19 eligible school building to the education operator.

20 3. Consider the financial capability of the education operator.

21 4. Negotiate a reasonable purchase price and terms with the education
22 operator. The purchase price shall be based upon either of the following:

23 a. The purchase price paid for other comparable school buildings sold within
24 the previous 5 years, with adjustments to the purchase price made by taking into
25 consideration the useable square footage, age, condition, and location of the eligible

1 school building and any other pertinent information about the eligible school
2 building and the school building or buildings used for purposes of comparison.
3 b. An appraisal prepared for the eligible school building that includes the
4 purchase price paid for comparable buildings, if available.
5 5. Complete the sale of the eligible school building in accordance with standard
6 city practices. The common council or its agent may condition closing on any of the
7 following:
8 a. Proof of financing for the purchase and any improvements proposed for the
9 eligible school building.
10 b. Inclusion of a reversionary clause permitting the common council to
11 recapture a building that remains unoccupied 24 months after the date of closing due
12 to a failure of the purchaser to complete improvements proposed for the eligible
13 school building.
14 (d) If, within 28 days after an education operator submits a letter of interest
15 under par. (a) at least one other education operator submits a letter of interest under
16 par. (a) or (b), the common council shall initiate a competitive, request–for–proposal
17 process and shall identify members of a committee to select the most suitable buyer
18 of the eligible school building. Once the most suitable buyer is selected, the common
19 council shall proceed with the selected prospective buyer as required under par. (c)
20 1. to 5. In evaluating proposals submitted under this paragraph, the committee
21 selected by the common council may not consider the organizational status of the
22 education operator nor the type of school proposed to be located in the eligible school
23 building, but shall consider all of the following:
24 1. The nature of any improvements proposed for, and the amount of any
25 investment in, the school building.

1 2. The quality of the design proposed for the school building.

2 3. The fiscal capability of the education operator.

3 (e) Any person may submit a letter of interest to purchase a school building that
4 has qualified as an eligible school building for more than 48 consecutive months.
5 Upon receipt of a letter of interest under this paragraph, the common council shall
6 proceed with the prospective buyer as required under par. (c) 2., 3., 4., and 5.

7 **(4)** If any eligible school building is sold as provided in this section, the net
8 proceeds of the sale shall be deposited into the school operations fund under s. 119.46.

9 **SECTION 6. Initial applicability.**

10 (1) The treatment of section 119.61 (4) (e) of the statutes first applies to a school
11 building that qualifies as an eligible school building under section 119.61 (1) (b) of
12 the statutes, as created by this act, on the effective date of this subsection.

13 **(END)**

Barman, Mike

From: Rep.Sanfelippo
Sent: Saturday, September 21, 2013 8:19 AM
To: LRB.Legal
Subject: Draft Review: LRB -3194/1 Topic: Authorize the City of Milwaukee to sell eligible school facilities to eligible buyers

Please Jacket LRB -3194/1 for the ASSEMBLY.