

State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0928/P2

TKK:wlj:rs

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P3

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

3/14/13  
sog

By  
Friday  
a.m.  
please

Regen

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

*Analysis by the Legislative Reference Bureau*

Insert  
analysis

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:*

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

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

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

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

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

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

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

14          **119.46 Taxes for school operations fund.** (1) As part of the budget  
15          transmitted annually to the common council under s. 119.16 (8) (b), the board shall  
16          report the amount of money required for the ensuing school year to operate all public  
17          schools in the city under this chapter, to repair and keep in order school buildings and  
18          equipment, to make material improvements to school property, and to purchase  
19          necessary additions to school sites. The report shall specify the amount of net  
20          proceeds from the sale or lease of city-owned property used for school purposes  
21          deposited in the immediately preceding school year into the school operations fund  
22          as specified under s. 119.60 (2m) (c) or (5) and the net proceeds from the sale of an  
23          eligible school building deposited in the immediately preceding school year into the  
24          school operations fund as specified under s. 119.61 (4). The amount included in the  
25          report for the purpose of supporting the Milwaukee Parental Choice Program under

1 s. 119.23 shall be reduced by the amount of aid received by the board under s. 121.136  
2 and by the amount specified in the notice received by the board under s. 121.137 (2).  
3 The common council shall levy and collect a tax upon all the property subject to  
4 taxation in the city, which shall be equal to the amount of money required by the  
5 board for the purposes set forth in this subsection, at the same time and in the same  
6 manner as other taxes are levied and collected. Such taxes shall be in addition to all  
7 other taxes which the city is authorized to levy. The taxes so levied and collected, any  
8 other funds provided by law and placed at the disposal of the city for the same  
9 purposes, and the moneys deposited in the school operations fund under ~~s. ss.~~ 119.60  
10 (1), (2m) (c), and (5), and 119.61 (4) shall constitute the school operations fund.

11 (2) If moneys specified in s. 119.60 (1), (2m) (c), or (5) or 119.61 (4) are deposited  
12 in the school operations fund, the moneys shall be used to pay the principal due on  
13 any bonds issued under s. 66.1333 (5r) (b), to make sinking fund payments with  
14 respect to such bonds, to purchase or redeem such bonds, to pay any redemption  
15 premium required to be paid when such bonds are redeemed prior to maturity, or to  
16 establish a defeasance escrow account for such bonds in an amount sufficient to  
17 provide for the payment of principal, any redemption premium and interest on such  
18 bonds when due, whether at maturity or upon prior redemption, and to pay any fees  
19 or expenses associated with the establishment of the defeasance escrow account.

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

21 119.60 (1) Except as provided in sub. (2m) (c) and s. 119.61, if any real property  
22 within the city which is used for school purposes is sold, the board shall determine  
23 whether the proceeds of the sale are deposited in the school operations fund under  
24 s. 119.46 or are deposited in the school construction fund under s. 119.48.

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

1           119.60 (2) Except as provided in sub. (2m) and s. 119.61, city-owned property  
 2 used for school purposes shall be sold by the city upon written request of the board  
 3 if the common council adopts a resolution approving the sale. If, within 12 months  
 4 after a written request by the board, the city has not disposed of the property, has  
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 6 the board with a written report giving specific reasons, which are not identified by  
 7 the city attorney as constituting a conflict of interest, for its failure to dispose of the  
 8 property or to obtain an agreement to dispose of the property, the board may retain  
 9 a real estate agent to represent the board in its real estate transactions.

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

11           **119.61 Surplus property. (1)** In this section:

12           (a) “Education operator” means any of the following:

- 13           1. The operator of a charter school established under s. 118.40 (2r).
- 14           2. The operator of a private school.
- 15           3. The operator of a charter school that is not an instrumentality of the school
- 16           district, as determined under s. 118.40 (7).

17           ~~69~~ <sup>4</sup> An entity or organization that has entered into a written agreement with any  
 18 of the operators identified in subds. 1. to <sup>50</sup> 3) to purchase or lease a building within  
 19 which the operator identified in subds. 1. to <sup>50</sup> 3) will operate a school.

20           (b) “Eligible school building” means a school building in the school district  
 21 operating under this chapter that satisfies any of the following:

- 22           1. The school building has been designated as surplus, underutilized, or vacant
- 23           on any resolution adopted within the previous 5 years by the board, and the board
- 24           is unable to demonstrate that the school building is no longer surplus, underutilized,
- 25           or vacant.

Inser 4-17

1           2. The school building has been unused or satisfies any condition qualifying the  
2 building as an underutilized school building for a period of 12 consecutive months,  
3 including the 12 months preceding the effective date of this subdivision .... [LRB  
4 inserts date].

5           (c) "Underutilized school building" means a school building that satisfies any  
6 of the following:

7           1. Less than 40 percent of the classroom space <sup>square footage</sup> in the building is used for  
8 instruction of pupils on a daily, school day basis.

9           2. The school is not staffed on a full-time basis by a principal and instructional  
10 staff assigned exclusively to the school.

Insert  
5-11

11           (2) (a) No later than 30 days after the effective date of this paragraph .... [LRB  
12 inserts date], and annually thereafter, the board shall prepare an inventory of all  
13 school buildings in the school district operating under this chapter that includes all  
14 of the following for each school building in the district:

15           1. The <sup>total square footage of</sup> number of classrooms in the school building <sup>and the</sup> ~~and~~ the number of pupils  
16 the school building can accommodate <sup>and the number of</sup> ~~and~~ pupils receiving instruction in the school <sup>building</sup>

LPS  
sort

Please move  
subd. 3. to 5-18.

17           2. The portion of classroom space <sup>the total square footage</sup> being used for direct pupil instruction ~~and the~~  
18 number of pupils receiving instruction in the school building

insert  
5-19

19           <sup>30</sup> (3) For any school building not being used for direct pupil instruction, the  
20 manner in which the school building is being used, including whether the building  
21 is vacant or is being used for administration, storage, or professional development.

22           <sup>60</sup> (4) The duration over the past 36 months that the school building has been used  
23 in the manner identified under subd. 2. or <sup>50</sup> (3).

24           <sup>70</sup> (5) Whether the board has ever designated the school building as surplus <sup>and, if so, when</sup>

1 ~~202~~ (6) Facility condition index information, including estimated short-term and  
2 long-term maintenance costs of the school building.

3 (b) The board shall submit a copy of the inventory required under par. (a) to the  
4 president of the common council, the department, and the joint committee on  
5 finance.

6 (c) In addition to the report required under par. (a), the board shall annually  
7 notify the president of the common council, the department, and the joint committee  
8 on finance any time a change is made to the use of a school building.

9 (3) (a) Except as provided in par. (c), only education operators may purchase  
10 an eligible school building. An education operator may submit a letter to notify the  
11 common council of its interest in purchasing an eligible school building. Upon receipt

Insert  
6-11

12 of a letter of interest <sup>is submitted</sup> (under this paragraph, the common council shall do all of the  
13 following:

14 1. Make information about the property available and show the property to the  
15 education operator.

under sub (1)(a)

16 2. Determine whether the prospective buyer is an Evaluate the eligibility and financial capability of the education operator

17 ~~4~~ (3) Negotiate a reasonable purchase price and terms with an education operator.  
18 The common council may include as a term under this subdivision a reversionary  
19 clause permitting the common council to recapture a building that remains  
20 unoccupied 36 months after the date of sale, but may not require as a condition of sale  
21 that the eligible school building be used as a school. The purchase price shall be  
22 based upon either of the following:

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

~~9~~ 3. Consider the financial capability of the education operator

1 the eligible school building and any other pertinent information about the eligible  
2 school 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, provided at least one of the  
5 comparable buildings is a school building sold by the city and provided the appraisal  
6 includes the information about the eligible school building and comparable buildings  
7 identified in subd. 3 a.

\*\*\*\*NOTE: Please review these new subdivision paragraphs 3. a. and b. to ensure they are consistent with your intent. Do you want to specify who must prepare the appraisal? See, for example, the language governing an independent appraiser selected jointly by the identified parties under s. 38.20 (2) (b).

\*\*\*\*NOTE: The drafting instructions proposed that a school building could be "recaptured" under a reversionary clause. Does this concept need to be fleshed out? That is, would the city have to pay back the purchase price or could the city take title through eminent domain, or is there some other process that would take place? Please advise.

8 (b) If more than one education operator has submitted a letter of interest under  
9 par. (a) <sup>(intro.)</sup> the common council shall initiate a competitive, request-for-proposal  
10 process and shall identify members of a committee to select the most suitable buyer  
11 of the eligible school building. Once the most suitable buyer is selected, the common  
12 council shall proceed as required under par. (a) 1. to <sup>e 40 ✓</sup> 3. In evaluating proposals  
13 submitted under this paragraph, the committee selected by the common council may  
14 not consider the organizational status of the education operator nor the type of school  
15 proposed to be located in the eligible school building, but may consider any of the  
16 following:

- 17 1. The nature of any improvements proposed for, and the amount of any  
18 investment in, the school building.
- 19 2. The design quality <sup>e</sup> of the design proposed for the school building
- 20 3. The fiscal capability of the education operator.

Not within 28 days after an education operator submits a letter of interest under par. (a) <sup>(intro.)</sup> at least one other

1 (c) <sup>2</sup> Beginning on the effective date of this paragraph .... [LRB inserts date], any  
 2 person may submit a letter of interest to purchase a school building that has qualified  
 3 as an eligible school building for more than 48<sup>consecutive</sup> months. Upon receipt of a letter of  
 4 interest under this paragraph, the common council shall proceed <sup>as required under</sup>  
 5 par. (a) 1. <sup>to 3. <sup>and 4</sup></sup> <sub>with the prospective buyer</sub>  
 6 (4) If any eligible school building is sold as provided in this section, the net  
 7 proceeds of the sale shall be deposited into the school operations fund under s. 119.46.

8

(END)

Insert 8-8 ✓  
 (Handwritten note in a box)



2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0928/P2ins  
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INSERT ANALYSIS

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 in 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 either 1) has been designated as surplus, underutilized, or vacant on any resolution adopted by the MPS board within the previous 5 years, provided the board is unable to demonstrate that the school building is no longer surplus, underutilized, or vacant; or 2) has been 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 either 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) 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 MPS to annually prepare a detailed inventory of all school buildings in MPS and submit that inventory to the Common Council, 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.

Under the bill, once a school building has qualified as an eligible school building, an education operator, and with certain exceptions only an education operator, 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 of Milwaukee, 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 has applied to contract with an entity under item 1 to operate a school as a charter school; 5) a person that has applied to 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

has been

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any

of the city of Milwaukee

is pursuing a

is seeking pursuing a

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.

Under the bill, the Common Council must, in a timely manner, negotiate a reasonable purchase price and terms for the purchase with the education operator. 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 5 years or on an appraisal of the eligible school building in which comparable properties are compared. 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, and the Common Council must negotiate a reasonable purchase price and terms for the purchase of the eligible school building.

SP

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.

INSERT 4-17 is ~~being~~ pursuing a

1 4. An individual or group that has applied to contract with an entity under s.  
2 118.40 (2r) (b) to operate a school as a charter school.

3 5. A person that has applied under s. 118.40 (2m) to contract with the board to  
4 operate a school as a charter school that is not an instrumentality of the school  
5 district.

INSERT 5-11

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

6 scheduled  
^

INSERT 5-19

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

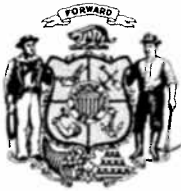
**INSERT 6-11**

1 <sup>(Not)</sup> Except as provided in par. (b), no later than the first business day that follows  
2 the 28th day after <sup>e</sup>(a)

**INSERT 8-8**

3 **SECTION 1. Initial applicability.**

4 ~~(\*)~~ The treatment of section 119.61 (3) (c) of the statutes first applies to a school  
5 building that qualifies as an eligible school building under section 119.61 (1) (b) of  
6 the statutes, as created by this act, on the effective date of this subsection.



Stay Runic

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

4/23/13

Today (no change)

Regen

1 **AN ACT** *to renumber and amend* 119.12 (6); *to amend* 119.46, 119.60 (1) and  
2 119.60 (2); and *to create* 119.61 of the statutes; **relating to:** authorizing the  
3 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

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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.

Under the bill, the common council must, in a timely manner, negotiate a reasonable purchase price and terms for the purchase with the education operator. 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. 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, and the common council must negotiate a reasonable purchase price and terms for the purchase of the eligible school building.

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23 2. The operator of a private school.

24 3. The operator of a charter school that is not an instrumentality of the school  
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1           4. An individual or group that is pursuing a contract with an entity under s.  
2 118.40 (2r) (b) to operate a school as a charter school.

3           5. A person that is pursuing a contract with the board under s. 118.40 (2m) to  
4 operate a school as a charter school that is not an instrumentality of the school  
5 district.

6           6. An entity or organization that has entered into a written agreement with any  
7 of the operators identified in subds. 1. to 5. to purchase or lease a building within  
8 which the operator identified in subds. 1. to 5. will operate a school.

9           (b) “Eligible school building” means a school building in the school district  
10 operating under this chapter that satisfies any of the following:

11           1. The school building has been designated as surplus, underutilized, or vacant  
12 on any resolution adopted within the previous 5 years by the board, and the board  
13 is unable to demonstrate that the school building is no longer surplus, underutilized,  
14 or vacant.

15           2. The school building has been unused or satisfies any condition qualifying the  
16 building as an underutilized school building for a period of 12 consecutive months,  
17 including the 12 months preceding the effective date of this subdivision .... [LRB  
18 inserts date].

19           (c) “Underutilized school building” means a school building that satisfies any  
20 of the following:

21           1. Less than 40 percent of the square footage in the building is used for  
22 instruction of pupils on a daily, school day basis.

23           2. The school is not staffed on a full-time basis by a principal and instructional  
24 staff assigned exclusively to the school.

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

4           (2) (a) No later than 30 days after the effective date of this paragraph .... [LRB  
5 inserts date], and annually thereafter, the board shall prepare an inventory of all  
6 school buildings in the school district operating under this chapter that includes all  
7 of the following for each school building in the district:

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

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

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

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

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

18          6. The duration over the past 36 months that the school building has been used  
19 in the manner identified under subd. 2. or 5.

20          7. Whether the board has ever designated the school building as surplus and,  
21 if so, when.

22          8. Facility condition index information, including estimated short-term and  
23 long-term maintenance costs of the school building.

1 (b) The board shall submit a copy of the inventory required under par. (a) to the  
2 president of the common council, the department, and the joint committee on  
3 finance.

4 (c) In addition to the report required under par. (a), the board shall annually  
5 notify the president of the common council, the department, and the joint committee  
6 on finance any time a change is made to the use of a school building.

7 **(3)** (a) Except as provided in par. (c), only education operators may purchase  
8 an eligible school building. An education operator may submit a letter to notify the  
9 common council of its interest in purchasing an eligible school building. Except as  
10 provided in par. (b), no later than the first business day that follows the 28th day after  
11 a letter of interest is submitted under this paragraph, the common council shall do  
12 all of the following:

13 1. Make information about the property available and show the property to the  
14 education operator.

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

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

18 4. Negotiate a reasonable purchase price and terms with an education operator.

19 The common council may include as a term under this subdivision a reversionary  
20 clause permitting the common council to recapture a building that remains  
21 unoccupied 36 months after the date of sale, but may not require as a condition of sale  
22 that the eligible school building be used as a school. The purchase price shall be  
23 based upon either of the following:

24 a. The purchase price paid for other comparable school buildings sold by the  
25 city within the previous 5 years, with adjustments to the purchase price made by

1 taking into consideration the useable square footage, age, condition, and location of  
2 the eligible school building and any other pertinent information about the eligible  
3 school building and the school building or buildings used for purposes of comparison.

4 b. An appraisal prepared for the eligible school building that includes the  
5 purchase price paid for comparable buildings, provided at least one of the  
6 comparable buildings is a school building sold by the city and provided the appraisal  
7 includes the information about the eligible school building and comparable buildings  
8 identified in subd. 4. a.

9 (b) If, within 28 days after an education operator submits a letter of interest  
10 under par. (a) (intro.) at least one other education operator submits a letter of interest  
11 under par. (a) (intro.), the common council shall initiate a competitive,  
12 request-for-proposal process and shall identify members of a committee to select the  
13 most suitable buyer of the eligible school building. Once the most suitable buyer is  
14 selected, the common council shall proceed as required under par. (a) 1. to 4. In  
15 evaluating proposals submitted under this paragraph, the committee selected by the  
16 common council may not consider the organizational status of the education operator  
17 nor the type of school proposed to be located in the eligible school building, but may  
18 consider any of the following:

19 1. The nature of any improvements proposed for, and the amount of any  
20 investment in, the school building.

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

22 3. The fiscal capability of the education operator.

23 (c) Any person may submit a letter of interest to purchase a school building that  
24 has qualified as an eligible school building for more than 48 consecutive months.

1 Upon receipt of a letter of interest under this paragraph, the common council shall  
2 proceed with the prospective buyer as required under par. (a) 1., 3., and 4.

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

5 **SECTION 6. Initial applicability.**

6 (1) The treatment of section 119.61 (3) (c) of the statutes first applies to a school  
7 building that qualifies as an eligible school building under section 119.61 (1) (b) of  
8 the statutes, as created by this act, on the effective date of this subsection.

9 (END)

## Kuczenski, Tracy

---

**From:** Bennett, Gary  
**Sent:** Tuesday, September 17, 2013 7:50 AM  
**To:** Kuczenski, Tracy  
**Subject:** Facilities Drafting notes  
**Attachments:** LRB 0928 Drafting Edits.pdf

Hi Tracy,

I am walking over now. See you shortly.

Gary Allen Bennett  
Office of Senator Alberta Darling  
317 East, State Capitol  
608-266-5830

*cell (310) 228-8310*

*\* Holly also*

MPS - principal is one of two buildings (adjacent campuses)  
→ not one campus? (two buildings)

p. 4 ln. 4

p. 10 ln. 5 create (5) to suit by undersigned

\* current draft contains nothing about notice.  
→ can notice be posted on web page? ex/current advice of  
machine listings, mortgage foreclosures

\* intent to circulate at Monday.





✓ RFP Process

Insert language

"If under (a)2. One or more additional parties submits a letter of interest, a competitiv RPF shall be initiated by the city within 29 days, as required under state law and city ordinances. The city must complete the RFP process within 90 days. The following shall be consired when evaluating prooposals.

1. The nature of any improvemetns proposed for, and the amout of any investment in, the school building.
2. The quality of the design proposed for the school building.
3. The fiscal capacity of the prospective buyers

Submitted by  
Gary Bennett on  
9/17/13

"eligible school building" as defined in (5)(b). The notice shall solicit letters of interest from parties who wish to purchase eligible buildings. .

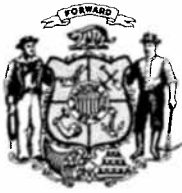
Note: The more info you want posted, the more time we will need (we prefer to just post the information noted above, which can be done in 28 days). FYI - other required notices go in the papers but we prefer an online notice.

1. Upon receipt of a first letter of interest under this paragraph, the city shall publicly post an online notice of the inquiry and provide a 28-day period during which other interested parties may submit a letter of interest.
  2. If no other letters of interest are received within the 28-day period, the city shall proceed to the process outlined in (b). If one or more letters of interest are received, the city shall proceed to initiate a competitive request-for-proposal process under (c).
- (b) Within 28 days, the city shall do all of the following with regard to the property for which a single letter of interest was submitted:
1. Make information about the property available to the prospective buyer.
  2. Determine whether the prospective buyer is an education operator under sub. (1)(a).
  3. Negotiate a reasonable purchase price and terms with the prospective buyer. The purchase price shall be based upon either of the following:
    - a. The purchase price paid for other comparable school buildings sold within the previous 5 years, with adjustments to the purchase price made by...(keep the rest the same as (3)(a)4.a.)
    - b. An appraisal prepared for the eligible school building that includes the purchase price paid for comparable buildings, if available.

Note: It does not appear that the execution of the sale is required in the bill draft, therefore (4) might be necessary.

4. Except as provided in par. (e), execute the sale?
5. The city may condition closing of the sale of eligible school buildings on ~~items such as~~ the following: **either**
  - a. Proof of financing for the purchase and planned renovations.
  - b. ~~Verification that a charter has been secured from a charter authorizer if the buyer is an education operators falling under (1)(a)4. Note - would a similar condition be appropriate for a choice school?~~
  - c. ~~Acquisition of building permits, zoning entitlements, etc.~~
  - d. A reversionary clause permitting the city to recapture a building that remains unoccupied due to a failure of the buyer to perform within 24 months of the proposed project completion date. **Carroll County Report**

~~However there may be other conditions of sale recommended by our real estate staff, this area needs some work.~~



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0928/L 2  
TKK:wj/rs

insert

stays Rumer

2013 BILL

in 9/19/13  
Wanted  
9/20/13 p.m.

Regen

1 AN ACT *to renumber and amend* 119.12 (6); *to amend* 119.46, 119.60 (1) and  
2 119.60 (2); and *to create* 119.61 of the statutes; **relating to:** authorizing the  
3 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

**BILL**

*with limited exceptions*

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) 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 MPS to annually prepare a detailed inventory of all school buildings in MPS and submit that inventory to the common council, 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.

*city clerk*

*the city clerk will publish information about eligible school buildings in 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 interest for a period of 29 days*

Under the bill, the common council must, in a timely manner, negotiate a reasonable purchase price and terms for the purchase with the education operator. 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. 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, and the common council must negotiate a reasonable purchase price and terms for the purchase of the eligible school building.

*selected buyer*

*more*

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.

**BILL**

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

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*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  
21 report the amount of money required for the ensuing school year to operate all public

**BILL****SECTION 2**

1 schools in the city under this chapter, to repair and keep in order school buildings and  
2 equipment, to make material improvements to school property, and to purchase  
3 necessary additions to school sites. The report shall specify the amount of net  
4 proceeds from the sale or lease of city-owned property used for school purposes  
5 deposited in the immediately preceding school year into the school operations fund  
6 as specified under s. 119.60 (2m) (c) or (5) and the net proceeds from the sale of an  
7 eligible school building deposited in the immediately preceding school year into the  
8 school operations fund as specified under s. 119.61 (4). The amount included in the  
9 report for the purpose of supporting the Milwaukee Parental Choice Program under  
10 s. 119.23 shall be reduced by the amount of aid received by the board under s. 121.136  
11 and by the amount specified in the notice received by the board under s. 121.137 (2).  
12 The common council shall levy and collect a tax upon all the property subject to  
13 taxation in the city, which shall be equal to the amount of money required by the  
14 board for the purposes set forth in this subsection, at the same time and in the same  
15 manner as other taxes are levied and collected. Such taxes shall be in addition to all  
16 other taxes which the city is authorized to levy. The taxes so levied and collected, any  
17 other funds provided by law and placed at the disposal of the city for the same  
18 purposes, and the moneys deposited in the school operations fund under ~~s. ss.~~ 119.60  
19 (1), (2m) (c), and (5), and 119.61 (4) shall constitute the school operations fund.

20 (2) If moneys specified in s. 119.60 (1), (2m) (c), or (5) or 119.61 (4) are deposited  
21 in the school operations fund, the moneys shall be used to pay the principal due on  
22 any bonds issued under s. 66.1333 (5r) (b), to make sinking fund payments with  
23 respect to such bonds, to purchase or redeem such bonds, to pay any redemption  
24 premium required to be paid when such bonds are redeemed prior to maturity, or to  
25 establish a defeasance escrow account for such bonds in an amount sufficient to

**BILL**

1 provide for the payment of principal, any redemption premium and interest on such  
2 bonds when due, whether at maturity or upon prior redemption, and to pay any fees  
3 or expenses associated with the establishment of the defeasance escrow account.

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

5 119.60 (1) Except as provided in sub. (2m) (c) and s. 119.61, if any real property  
6 within the city which is used for school purposes is sold, the board shall determine  
7 whether the proceeds of the sale are deposited in the school operations fund under  
8 s. 119.46 or are deposited in the school construction fund under s. 119.48.

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

10 119.60 (2) Except as provided in sub. (2m) and s. 119.61, city-owned property  
11 used for school purposes shall be sold by the city upon written request of the board  
12 if the common council adopts a resolution approving the sale. If, within 12 months  
13 after a written request by the board, the city has not disposed of the property, has  
14 failed to obtain a written agreement to dispose of the property, or has not provided  
15 the board with a written report giving specific reasons, which are not identified by  
16 the city attorney as constituting a conflict of interest, for its failure to dispose of the  
17 property or to obtain an agreement to dispose of the property, the board may retain  
18 a real estate agent to represent the board in its real estate transactions.

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

20 **119.61 Surplus property. (1)** In this section:

21 (a) “Education operator” means any of the following:

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

23 2. The operator of a private school.

24 3. The operator of a charter school that is not an instrumentality of the school

25 district, as determined under s. 118.40 (7).

BILL

1 4. An individual or group that is pursuing a contract with an entity under s.  
2 118.40 (2r) (b) to operate a school as a charter school.

3 5. A person that is pursuing a contract with the board under s. 118.40 (2m) to  
4 operate a school as a charter school that is not an instrumentality of the school  
5 district.

6 6. An entity or organization that has entered into a written agreement with any  
7 of the operators identified in subds. 1. to 5. to purchase or lease a building within  
8 which the operator identified in subds. 1. to 5. will operate a school.

9 (b) "Eligible school building" means a school building in the school district  
10 operating under this chapter that satisfies any of the following:

11 1. The school building has been designated as surplus, underutilized, or vacant  
12 on any resolution adopted within the previous 5 years by the board, and the board  
13 is unable to demonstrate that the school building is no longer surplus, underutilized,  
14 or vacant.

15 2. The school building has been unused or satisfies any condition qualifying the  
16 building as an underutilized school building for a period of 12 consecutive months,  
17 including the 12 months preceding the effective date of this subdivision .... [LRB  
18 inserts date].

19 (c) "Underutilized school building" means a school building that satisfies any  
20 of the following:

21 1. Less than 40 percent of the square footage in the building is used for  
22 instruction of pupils on a daily, school day basis.

23 2. The school is not staffed on a full-time basis by a principal and instructional  
24 staff assigned exclusively to the school.

↓  
do subject to subd 20 b 1,



BILL

Insert 7-1

Insert 7-6

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

4 (2) (a) No later than 30 days after the effective date of this paragraph .... [LRB  
5 inserts date], and annually thereafter, the board shall prepare an inventory of all  
6 school buildings in the school district operating under this chapter that includes all  
7 of the following for each school building in the district:

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

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

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

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

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

18 6. The duration over the past 36 months that the school building has been used  
19 in the manner identified under subd. 2. or 5.

20 7. Whether the board has ever designated the school building as surplus and,

21 if so, when

22 8. Facility condition index information, including estimated short-term and  
23 long-term maintenance costs of the school building.

Underutilized or Vacant on any resolution adopted by the board within the previous 5 years

BILL

SECTION 5

1 (b) The board shall submit a copy of the inventory required under par. (a) to the  
2 president of the common council, the department, and the joint committee on  
3 finance.

4 (c) In addition to the <sup>inventory</sup> report required under par. (a), the board shall annually  
5 notify the <sup>city clerk</sup> president of the common council, the department, and the joint committee  
6 on finance any time a change is made to the use of a school building.

7 (4) (3) (a) Except as provided in par. (c), only education operators may purchase  
8 an eligible school building. An education operator may submit a letter to notify the  
9 common council of its interest in purchasing an eligible school building. Except as  
10 provided in par. (b), no later than the first business day that follows the 28th day after  
11 a letter of interest is submitted under this paragraph, the common council shall do  
12 all of the following:

13 1. Make information about the property available and show the property to the  
14 education operator.

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

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

18 4. Negotiate a reasonable purchase price and terms with an education operator.

19 The common council may include as a term under this subdivision a reversionary  
20 clause permitting the common council to recapture a building that remains  
21 unoccupied 36 months after the date of sale, but may not require as a condition of sale  
22 that the eligible school building be used as a school. The purchase price shall be  
23 based upon either of the following:

24 a. The purchase price paid for other comparable school buildings sold by the  
25 city within the previous 5 years, with adjustments to the purchase price made by

Insert 8-7A

Insert 8-7B

Insert 8-7C

Insert 8-7D

Insert 8-7E

Insert 8-7F

Insert 8-7G

Insert 8-7H

Insert 8-7B

of interest as provided in the public notice under sub. (3)

Insert 8-7H

par. (b) or its agent

eligible school building

2x

**BILL**

1 taking into consideration the useable square footage, age, condition, and location of  
2 the eligible school building and any other pertinent information about the eligible  
3 school building and the school building or buildings used for purposes of comparison.

4 b. An appraisal prepared for the eligible school building that includes the  
5 purchase price paid for comparable buildings, <sup>if available</sup> provided at least one of the

6 comparable buildings is a school building sold by the city and provided the appraisal  
7 includes the information about the eligible school building and comparable buildings  
8 identified in subd. 4. a.)

9 (b) If, within 28 days after an education operator submits a letter of interest  
10 under par. (a) (intro.) at least one other education operator submits a letter of interest

11 under par. (a) (intro.) <sup>or (b)</sup> the common council shall initiate a competitive,  
12 request-for-proposal process and shall identify members of a committee to select the

13 most suitable buyer of the eligible school building. Once the most suitable buyer is  
14 selected, the common council shall proceed <sup>with the selected prospective buyer</sup> as required under par. (a) 1. to (4) In

15 evaluating proposals submitted under this paragraph, the committee selected by the  
16 common council may not consider the organizational status of the education operator

17 nor the type of school proposed to be located in the eligible school building, but may  
18 consider <sup>all</sup> any of the following: <sup>shall</sup>

19 1. The nature of any improvements proposed for, and the amount of any  
20 investment in, the school building.

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

22 3. The fiscal capability of the education operator.

23 (c) Any person may submit a letter of interest to purchase a school building that  
24 has qualified as an eligible school building for more than 48 consecutive months.

Intro 9-9

**BILL**

**SECTION 5**

1 Upon receipt of a letter of interest under this paragraph, the common council shall  
2 proceed with the prospective buyer as required under par. (a) <sup>(c) 40 ↑</sup> ~~1, 3, and 4~~ <sup>5</sup>

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

5 **SECTION 6. Initial applicability.** <sup>(4) (e)</sup>

6 (1) The treatment of section 119.61 <sup>(4) (e)</sup> ~~(3) (c)~~ of the statutes first applies to a school  
7 building that qualifies as an eligible school building under section 119.61 (1) (b) of  
8 the statutes, as created by this act, on the effective date of this subsection.

9 (END)

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0928/lins  
TKK:wlj:rs

INSERT 7-1

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

INSERT 7-6

4 <sup>no 4</sup> . The board shall sort the information in the inventory by the use of the building  
5 at the time the report is prepared and shall include

INSERT 8-7A

6 <sup>a</sup> (3) No more than 30 days after receipt of the inventory required under sub. (2)  
7 ~~(b)~~ or of a notice under sub. (2) (c), the city clerk shall post a public notice on the city's  
8 Internet site. The city clerk shall include in the public notice under this subsection  
9 the address of and the information specified <sup>also</sup> under sub. (2) (a) 1. and 8. for each school <sup>(a)</sup> ~~(b)~~ <sup>STET</sup>  
10 building identified on the inventory under sub. (2) ~~(b)~~ or on the notice under sub. (2)  
11 (c), that is an eligible school building. The city clerk shall include in the public notice  
12 <sup>STET</sup> a request <sup>for</sup> and instructions for submitting letters of interest from persons  
13 interested in purchasing an eligible school building.

INSERT 8-7B

14 <sup>Not</sup> The common council may designate a person to act as the agent of the city with  
15 respect to the sale of an eligible school building.

INSERT 8-9

16 (b) Upon receipt of a letter of interest under par. (a), the city clerk shall update  
17 that portion of the city's Internet site containing information about the eligible school  
18 building to indicate that a letter of interest has been received and that other  
19 interested education operators may, within a period of 28 days from the date of the  
20 update, submit a letter of interest to notify the common council or its agent of its

1 interest in purchasing the eligible school building. If, at the end of the 28<sup>0</sup> day period,  
2 no other letters of interest in purchasing the eligible school building have been  
3 received, the city shall proceed under par. (c). If, within the 28<sup>0</sup> day period, one or  
4 more other letters of interest in purchasing the eligible school building have been  
5 received, the city shall proceed under par. (d). ✓

6 (c)

**INSERT 9-9**

7 5. Complete the sale of the eligible school building in accordance with standard  
8 city practices. The common council or its agent may condition closing on any of the  
9 following:

10 a. Proof of financing for the purchase and any improvements proposed for the  
11 eligible school building.

12 b. Inclusion of a reversionary clause permitting the common council to  
13 recapture a building that remains unoccupied 24 months after the date of closing due  
14 to a failure of the purchaser to complete improvements proposed for the eligible  
15 school building.

**Parisi, Lori**

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**From:** Bennett, Gary  
**Sent:** Tuesday, October 01, 2013 8:30 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -0928/2 Topic: Authorize the City of Milwaukee to sell eligible school facilities to eligible buyers

Please rush this – AD would like to introduce it today if possible. Can you call me to advise on turn around time? I know usually it takes a day.

Please Jacket LRB -0928/2 for the SENATE.

Best,

Gary

608-266-5830