



School Business Law Update

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EDUCATION BUDGET TRAILER BILL, SB 1016, MAKES CHANGES TO THE SURPLUS PROPERTY STATUTES

Effective July 1, 2012, with the passage of the Education Budget Trailer Bill SB 1016 on June 27, 2012, multiple sections of the Education Code were added or amended pertaining to the sale or lease of surplus property. For the 2012-13 fiscal year (unless extended), a district seeking to sell or lease real property designed to provide direct instruction or instructional support must first be offered to any charter school that has submitted a written request to be notified of surplus property offered for sale or lease.

SB 1016 added section 17457.5 to the Education Code and made conforming revisions to sections 17230, 17458, 17464, 17489 and 17592.71. The revised and added provisions specifically:

- Pertain to real property declared as surplus after July 1, 2012 that is designed to provide direct instruction or instructional support.
- Require the real property be used by the charter school to provide direct instruction or instructional support for a period of at least five years.
- Limit the price at which property is sold to the school district's cost of acquisition, adjusted by a factor equivalent to the increase/decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any construction undertaken on the property since acquisition, adjusted by the increase/decrease in the statewide cost index for class B construction. The purchase price cannot be less than 25% of the property's fair market value or the cost to retire any debt associated with the original acquisition of the property.
- Limit annual lease rates to not more than 5 percent of the maximum sales price, adjusted annually by the percentage increase/decrease in the cost of living for the immediately preceding year.
- Require a charter school that fails to use the property exclusively for direct instruction or instructional support for at least five years to sell the property back to the school district at the district's acquisition cost, not the cost paid by the charter. In the case of a lease, the district

will receive immediate possession of the site and any damages provided for in the lease agreement.

A charter school (there could be more than one) has 60 days to notify the district of its intent to purchase/lease. The district may choose the charter if it receives an intent to purchase/lease from multiple charters. The statute becomes inoperative on June 30, 2013 and is repealed on January 1, 2014, unless extended by future legislation.

If you have any questions concerning this update or related issues, do not hesitate to contact our office.

~ Christopher P. Burger

School Business Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.

