

My (Jan Shaw) suggested changes for HB2145

Synopsis

Several school districts have recently signed lease-to-own agreements in order to build new school buildings, pay for them over a 20 year period and ultimately own the building without the required Referendum. Other districts have already jumped on the bandwagon, in effect ignoring the taxpayers' right to say Yes or no. The purpose of this bill is to clarify the text in Sec. 10-22.12. Lease of property for school purposes & Sec. 10-22.36. Buildings for school purposes so that the text must be interpreted the way it was explained in 2001 when the term "lease" was added to Sec. 10-22.36

The "lease" was never intended to be lease to own, as a way of avoiding a referendum. See House, transcript from the 5/1/2001 floor debate prior to the vote that put this language in. On pages 49-52 in <http://ilga.gov/house/transcripts/htrans92/t050101.pdf>

Rep. Black asked"

"...I want to make sure, Representative, that we're not circumventing the right of the voters to say, 'I don't think that you ought to buy that building.'"

And Rep Crotty (bill sponsor) replied

"That is not in the Bill....When we're talking about leasing, many school districts lease a building may be for a dollar an hour just to be sure that that is not something that needs to be done with referendum. So, we're not changing that part. And if there are added dollars needed for a school district, they most definitely have to still go through referendum."

But, according to Bob Lewis (PMA) presentations at Wheaton-Warrenville, CUSD 200 board meetings this (lease to avoid referendum) has been going on for years. He listed several. I found 1 (Sunset Ridge). CUSD 200 planned to do the same – They ran a referendum in 2018 rather than risk fighting my lawsuit in court. Lisle is now building without referendum. I will send details in a separate message.

Changes I recommend – after reading the bill (HB2145 on 3/4/2019)

105 ILCS 5/10-22.12) (from Ch. 122, par. 10-22.12)

Sec. 10-22.12. Lease of property for school purposes. To lease, for a period not exceeding 99 years, any building, rooms, grounds and appurtenances to be used by the district for the use of schools or for school administration purposes; and to pay for the use of such leased property in accordance with the terms of the lease. The board shall not make or renew any lease for a term longer than 10 years, nor alter the terms of any lease whose unexpired term may exceed 10 years without the vote of 2/3 of the full membership of the board. **Boards may not lease any building that does not yet exist. Nor shall they sign any lease to purchase agreement without a successful referendum as required by Sec. 10-22.36.**

(105 ILCS 5/10-22.36) (from Ch. 122, par. 10-22.36)

Sec. 10-22.36. Buildings for school purposes. To build or purchase a building for school classroom or instructional purposes upon the approval of a majority of the voters upon the proposition at a referendum held for such purpose or in accordance with Section 17-2.11, ~~19-3.5, or 19-3.10~~. Referendum language for the school construction project must include a description of the project, the estimated total cost of the project, the source of funding for the project, and any other relevant financial information about the project, as currently required by statute. The board may initiate such referendum by resolution. The board shall certify the resolution and proposition to the proper election authority for submission in accordance with the general election law.

The questions of building one or more new buildings for school purposes or office facilities, and issuing bonds for the purpose of borrowing money to purchase one or more buildings or sites for such buildings or office sites, to build one or more new buildings for school purposes or office facilities or to make additions and improvements to existing school buildings, may be combined into one or more propositions on the ballot.

Before erecting, or purchasing or remodeling such a building or the board shall submit the plans and specifications respecting heating, ventilating, lighting, seating, water supply, toilets and safety against fire to the regional superintendent of schools having supervision and control over the district, for approval in accordance with Section 2-3.12.

Notwithstanding any of the foregoing, no referendum shall be required if the purchase, construction, or building of any such building ~~(1) occurs while the building is being leased by the school district or (2) is~~ completely paid with (A) funds derived from the sale or disposition of other buildings, land, or structures of the school district or (B) funds received (i) as a grant under the School Construction Law or (ii) as gifts or donations, provided that no funds to purchase, construct, or build such building, ~~other than lease payments,~~ are derived from the district's bonded indebtedness or the tax levy or any other taxes, revenues, or debt instruments of the district.

Money derived from the district's bonded indebtedness or the tax levy of the district may be used to lease an existing building prior to purchasing it so that the district may take occupancy prior to purchase. Money used to lease a building prior to purchase may NOT be applied to the purchase price.

Notwithstanding any of the foregoing, no referendum shall be required if the purchase, construction, or building of any such building is paid with funds received from the County School Facility Occupation Tax Law under Section 5-1006.7 of the Counties Code or from the proceeds of bonds or other debt obligations secured by revenues obtained from that Law.

Note: sections ILCS 5/19-3.5 and ILCS 5/19-3.10 were passed to fix one-time problems.

(105 ILCS 5/19-3.5)

Sec. 19-3.5. Flood-damaged building. Martinsville Community Unit School District 3C is authorized to issue bonds in not to exceed the amount of \$4,000,000 for the purpose of paying the cost of acquiring and improving a school site and building and equipping a new school building on the site to replace all or a portion of a school building closed by the regional superintendent of schools pursuant to Section 3-14.22 of this Code because of flood damage. The replacement building may be larger than the size of and offer more functions than the school building being replaced. Bonds issued pursuant to this Section may be issued without referendum and shall mature not more than 25 years from the date of issuance.

(Source: P.A. 96-517, eff. 8-14-09.)

(105 ILCS 5/19-3.10)

Sec. 19-3.10. Mine subsidence damaged building. Gillespie Community Unit School District 7 is authorized to issue bonds in not to exceed the amount of \$22,000,000 for the purpose of paying the cost of acquiring and improving a school site and building and equipping a new school building on the site to replace all or a portion of a school building closed by the regional superintendent of schools pursuant to Section 3-14.22 of this Code because of mine subsidence damage. The replacement building may be larger than the size of and offer more functions than the school building being replaced. Bonds issued pursuant to this Section may be issued without referendum and shall mature not more than 25 years from the date of issuance.

(Source: P.A. 96-517, eff. 8-14-09.)