

EDUCATION CODE - EDC

TITLE 3. POSTSECONDARY EDUCATION [66000 - 101060]

(Title 3 enacted by Stats. 1976, Ch. 1010.)

DIVISION 7. COMMUNITY COLLEGES [70900 - 88651]

(Division 7 enacted by Stats. 1976, Ch. 1010.)

PART 49. COMMUNITY COLLEGES, EDUCATION FACILITIES [81003 - 82548]

(Part 49 enacted by Stats. 1976, Ch. 1010.)

CHAPTER 2. Property: Sale, Lease, Use, Gift, and Exchange [81250 - 81553]

(Heading of Chapter 2 repealed (by Sec. 3) and added by Stats. 1998, Ch. 657, Sec. 1.)

ARTICLE 4. Sale or Lease of Real Property [81360 - 81382]

(Article 4 enacted by Stats. 1976, Ch. 1010.)

81360.

The governing board of a community college district may sell any real property belonging to the district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district, and shall be made in the manner provided by this article.

(Enacted by Stats. 1976, Ch. 1010.)

81361.

The governing board of a community college district that has by majority vote established a standard rate or rates for the lease pursuant to this article of its real property may by majority vote delegate to an officer or employee as the governing board may designate, the power to enter into leases, for and in behalf of the district, of any real property of the district, with respect to which real property the district has received only one sealed proposal that conforms with the existing standard rate or rates, from a responsible bidder.

(Amended by Stats. 2009, Ch. 390, Sec. 1. Effective January 1, 2010.)

81363.

The funds derived from the sale or from a lease with an option to purchase shall be used for capital outlay or deferred maintenance; provided, however, that the proceeds of property sold or leased ~~in accordance with subdivision (a) or (b) of Section 81363.5~~ may be deposited in the general fund of the district if, prior to the sale or lease, the community college district governing board has determined that the district has no anticipated need for additional sites or building construction for the five-year period following the sale or lease.

(Amended by Stats. 1984, Ch. 609, Sec. 4. Effective July 19, 1984.)

81363.5.

Except as provided for in Article 9 (commencing with Section 81190) of Chapter 1, the sale or lease with an option to purchase of real property by a community college district shall be in accordance with the following priorities and procedures:

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which such article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value:

(1) In writing, to the Director of General Services, the Regents of the University of California, the Trustees of the California State University, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated; and

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations existing on December 31, 1979, and organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code then in effect or organized for charitable purposes on or after January 1, 1980, under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The written notice required by paragraph (1) of this subdivision shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the community college district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may, in its discretion, determine which of the offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law. (Amended by Stats. 1983, Ch. 143, Sec. 84.)

81364.

~~Any lease may be made upon such consideration or for such rental, as is authorized by the action of the governing board.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81365.

~~Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81366.

~~In lieu of the declaration of intention to lease real property provided in Section 81365, the governing board of a community college district having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year may publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in the district. The notice shall describe the property proposed to be leased in such manner as to identify it and shall specify the minimum rental and terms upon which it will be leased. The notice shall fix a time not less than 15 days thereafter for a public meeting of the governing board to be held at its regular place of meeting at which proposal to lease will be received and considered.~~

~~The governing board by majority vote may adopt a ruling delegating to such officer or employee of the district as the board may designate, authority to perform the duties prescribed in this section.~~

~~Bids received under this section shall be received, accepted, or rejected in accordance with the provisions of this article.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81367.

~~If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the sealed proposal that is finally accepted the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.~~

~~(Amended by Stats. 2009, Ch. 390, Sec. 2. Effective January 1, 2010.)~~

81368.

~~Notice of the adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81369.

~~Whenever it is proposed to lease real property and the governing board unanimously determines in the resolution that in its opinion, the monthly rental value of the property does not exceed the sum of fifty dollars (\$50), the resolution need not be posted and may, before the date of the meeting, be published in two successive issues of a weekly newspaper or in five successive issues of a daily newspaper. The newspaper in which the notice is published shall be one published in the district and having a general circulation there; or if there is no such newspaper, then one having a general circulation in the district; or if there is no such newspaper, then in one having a general circulation in a county in which the district or any part thereof is situated.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81370.

~~(a) At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals that have been received shall, in public session, be opened, examined, and declared by the board. Except as provided in subdivision (b), of the proposals submitted that conform to all terms and conditions specified in the resolution of intention to sell or to lease and that are made by responsible bidders, the sealed proposal that is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless the board rejects all of these bids.~~

~~(b) Notwithstanding subdivision (a), the governing board of any community college district may apply to the Board of Governors of the California Community Colleges for a waiver of the requirement that the governing board accept the highest responsible bid for the sale or lease of real property. The board of governors may grant a waiver pursuant to this subdivision if it determines that the waiver is in the best interests of the community college district.~~

~~(Amended by Stats. 2009, Ch. 390, Sec. 3. Effective January 1, 2010.)~~

81371.5.

Notwithstanding any other provision of this article, the board of governors may authorize the governing board of any community college district within Orange County to enter into a negotiated sale of real property owned by the district if that governing board previously opened the bidding process two or more times to sell the real property and did not accept any bids.

(Added by Stats. 1997, Ch. 57, Sec. 1. Effective January 1, 1998.)

81372.

~~(a) The governing board by majority vote may adopt a rule delegating to an officer or employee of the district the authority to perform the duties required to be performed by the governing board under Section 81370. If a delegation rule is adopted pursuant to this subdivision, the resolution required in Section 81365 shall specify, in lieu of the public meeting of the governing board to be held at its regular place of meeting, the place at which the designated officer or employee will receive and open sealed proposals to purchase or lease.~~

~~(b) All other provisions of this article not in conflict with the delegation of this authority are applicable. However, the final acceptance of a bid, or rejection of all bids, shall be made by the governing board at a public meeting.~~

~~(Amended by Stats. 2009, Ch. 390, Sec. 5. Effective January 1, 2010.)~~

81374.

~~The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81375.

~~The governing body may at the session, if it deems it would be for the best public interest, reject any and all bids, and withdraw the property from sale or lease.~~

~~(Amended by Stats. 2009, Ch. 390, Sec. 7. Effective January 1, 2010.)~~

81376.

~~Any resolution of acceptance of any bid made by the governing body authorizes and directs the president of the governing body, or other presiding officer, or the members thereof, to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessee of all the terms or conditions of his contract to be performed concurrently therewith.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81377.

—

~~Nothing in Sections 81360 to 81363, inclusive, shall prevent the governing board of a community college district from acquiring, leasing or subleasing property pursuant to Section 1261 of the Military and Veterans Code.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81378.

~~The governing board of a community college district, without complying with any other provision of this article, may lease in the name of the district any buildings, grounds, or space therein, together with any personal property located thereon, not needed for school classroom buildings upon terms and conditions agreed upon by the governing board of the district and the lessee for a period not exceeding 14 separate or consecutive calendar days, or portions of those days, in each fiscal year.~~

~~(Amended by Stats. 2006, Ch. 134, Sec. 1. Effective January 1, 2007.)~~

81378.1.

~~(a) The governing board of a community college district may, without complying with any other provision of this article, let, in the name of the district, any buildings, grounds, or space therein, together with any personal property located thereon, not needed for academic activities, upon the terms and conditions agreed upon by the governing board and the lessee for a period of more than five days but less than five years, as determined by the governing board. Before executing the lease, the governing board shall include in an agenda of a meeting of the board open to the public a description of the proposed lease and an explanation of the methodology used to establish the lease rate and for determining the fair market value of the lease.~~

~~(b) The governing board shall give public notice before taking any action pursuant to subdivision (a). The notice shall include a description of the governing board's intended action. The notice shall be printed once a week for three successive weeks prior to the board meeting described in subdivision (a) in a newspaper of general circulation that is published at least once a week.~~

~~(c) The governing board shall include, as a condition in any agreement to let any buildings, grounds, or space therein, together with any personal property located thereon, a provision that the agreement shall be subject to renegotiation and may be rescinded after 60 days' notice to the lessee if the governing board determines at any time during the term of the agreement that the buildings, grounds, or space therein subject to the agreement are needed for academic activities. Any revenue derived pursuant to the agreement shall be retained for the exclusive use of the community college district whose buildings, grounds, or space therein are the basis of the agreement and shall be used to supplement, but not supplant, any state funding. Any buildings, grounds, or space therein let by the district shall be included as space actually available for use by the college in any calculations related to any plan for capital construction submitted to the board of governors pursuant to Chapter 4 (commencing with Section 81800), or any other law.~~

~~(d) The authority of a governing board under this section does not apply to the letting of an entire campus.~~

~~(e) The use of any buildings, grounds, or space therein, together with any personal property located thereon, let by the governing board pursuant to this section shall be consistent with all applicable zoning ordinances and regulations.~~

~~(Amended by Stats. 2013, Ch. 76, Sec. 51. Effective January 1, 2014.)~~

81379.

~~In addition to any other authority to lease real property, the governing board of a community college district, by a two-thirds vote of its members, may lease, for a term not exceeding three months, district property having a residence thereon, which cannot be developed for district purposes because of the unavailability of funds. The lease shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this section.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81380.

~~The governing board of a community college district may, with the approval of the county board of supervisors, sell or lease any building of the district together with the site upon which such building is located, without complying with any other provisions of this article, provided that the county board of supervisors finds that all of the following conditions exist:~~

~~(a) The sale or lease is to be made to an incorporated nonprofit tax-exempt community or civic organization with a membership comprised predominantly of persons residing in the community in which the building and site are situated.~~

~~(b) The building is not suitable for school purposes.~~

~~(c) The building has an historic value and its preservation and utilization for the benefit of the community will best be ensured by sale or lease to an organization specified in subdivision (a).~~

~~(d) The sale or lease is to be executed for a consideration to inure to the district reflecting the fair market value of the property, or its fair rental value, as the case may be.~~

~~(e) Adequate provision has been made in connection with the sale or lease transaction to protect the district against all civil liabilities which might arise in connection with any use of the building and site.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81381.

~~The governing board of a community college district may lease property in an adjoining district for garage, warehouse, or other utility purposes or may purchase property in an adjoining district for such purposes and may dispose of such property in the same manner as property within the boundary of the district is purchased and disposed of.~~

~~The power of eminent domain shall not be applicable and such acquisitions by purchase shall be subject to the approval of the governing board of the community college district in which the property is located.~~

~~(Enacted by Stats. 1976, Ch. 1010.)~~

81382.

~~The failure to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.
(Enacted by Stats. 1976, Ch. 1010.)~~