

## CONCURRENCE IN SENATE AMENDMENTS

AB 1406 (Gloria)

As Amended May 7, 2018

Majority vote

ASSEMBLY: 59-17 (May 31, 2018)

SENATE: 37-0 (June 14, 2018)

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Original Committee Reference: **H. & C.D.**

**SUMMARY:** Extends the maximum allowable terms of specified lease agreements that a school district may enter into.

**The Senate amendments** strike the Assembly version of this bill, and instead:

- 1) Extend the maximum allowable term of lease-leaseback and lease-to-own agreements from 40 years to 99 years.
- 2) Extend the maximum allowable term of joint occupancy agreements from 66 years to 99 years.

**FISCAL EFFECT:** None. This bill is keyed non-fiscal by the Legislative Counsel.

**COMMENTS:** There are several types of lease agreements in the Education Code. The maximum terms of the leases vary, from 40 years to 99 years. This bill extends the terms of the following leases to 99 years:

- 1) Lease-leaseback: Lease-leaseback is a process whereby a governing board of a school district may, through a competitive bidding process, rent district property for a minimum of \$1 a year to any person, firm, or corporation. The person, firm, or corporation constructs the school building and rents the facility back to the school district. At the end of the lease, the district resumes title to the building and site. The current maximum term of lease-leaseback leases is no more than 40 years.
- 2) Lease-to-own: In a lease-to-own agreement, the governing board of a school district, through a bidding process, may enter into a contract with a person, firm, or corporation with the lowest bid, under which that entity that receives the contract will construct the building on a designated site and lease the property to the school district. The school district gets the title at the end of the lease. The current maximum term of a lease-to-own agreement is no more than 40 years.
- 3) Joint occupancy: A school district may enter into long term leases for the use of district-owned real property and buildings to be jointly used by the school district and a private person, firm, or local governmental agency. A district may allow a private entity to build on or make alterations of existing property. If the school district will be using the facilities, the buildings must comply with the Field Act (seismic safety). A joint-occupancy agreement must be approved by the State Board of Education. The maximum term of a joint occupancy lease is no more than 66 years.

According to the author, "Current law authorizes any school district to enter into leases and agreements relating to real property and buildings to be used jointly by the district and another

entity. Current law limits the term of such a lease or agreement to no more than 66 years; however, leases and agreements in the Civil Code allow terms of no more than 99 years. This shorter time cap limits the ability to develop workforce housing on available and unoccupied sites for teachers, nurses, and other school district staff, while also limiting school districts from establishing sustainable income streams.

The lack of workforce housing near employment opportunities forces Californians to live in overcrowded housing near their jobs or in housing far away with longer commute times. This situation leads to decreased quality of life, increased income inequality, and lack of progress towards the state's climate change goals. The production of affordable workforce housing must increase in order to keep up with California's robust job growth and housing demand.

AB 1406 aligns the Education Code with the Civil Code to authorize school boards to enter in joint-occupancy leases for up to 99 years. This will increase the feasibility of additional workforce housing projects on unused land, create a steady income stream, and diversify the projects that school districts can obtain by entering into joint-occupancy agreements."

According to the author's office, developers are reluctant to initiate housing projects due to challenges in obtaining financing when leases are short term. The ability to secure financing increases if the term of a lease is at least 99 years.

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