

**ASSEMBLY BILL**

**No. 2316**

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**Introduced by Assembly Member O'Donnell  
(Coauthor: Assembly Member Mullin)**

February 18, 2016

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An act to amend Section 17406 of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2316, as introduced, O'Donnell. School facilities: leasing property.

Existing law requires the governing board of a school district to adopt a resolution that, among other things: (1) declares its intention to enter into a lease or agreement relating to school property, (2) includes specified information about the property, and (3) fixes a time for a public meeting of the governing board at which sealed proposals to enter a lease or agreement with the school district will be received from any person, firm, or corporation, and considered by the governing board, as specified.

Existing law, notwithstanding the provision described above, also authorizes the governing board of a school district, without advertising for bids, to lease real property for a minimum rental of \$1 per year if the instrument by which this property is leased requires the lessee to construct, or provide for the construction of, a building to be used by the school district and provides that the title to the building shall vest in the school district at the end of the lease.

This bill would delete the language that provides that a school district governing board is not required to advertise for bids pursuant to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17406 of the Education Code, as amended  
2 by Section 1 of Chapter 214 of the Statutes of 2015, is amended  
3 to read:

4 17406. (a) (1) Notwithstanding Section 17417, the governing  
5 board of a school ~~district, without advertising for bids,~~ *district* may  
6 let, for a minimum rental of one dollar (\$1) a year, to a person,  
7 firm, or corporation real property that belongs to the school district  
8 if the instrument by which this property is let requires the lessee  
9 therein to construct on the demised premises, or provide for the  
10 construction thereon of, a building or buildings for the use of the  
11 school district during the term of the lease, and provides that title  
12 to that building shall vest in the school district at the expiration of  
13 that term. The instrument may provide for the means or methods  
14 by which that title shall vest in the school district before the  
15 expiration of that term, and shall contain other terms and conditions  
16 as the governing board of the school district may deem to be in  
17 the best interest of the school district.

18 (2) For a public project, as defined in subdivision (c) of Section  
19 22002 of the Public Contract Code, regardless of its funding source,  
20 an instrument created pursuant to paragraph (1) shall also require  
21 that a person, firm, or corporation that constructs the building,  
22 including, but not limited to, the prime contractor and, if used,  
23 electrical, mechanical, and plumbing subcontractor, shall be subject  
24 to the same prequalification requirements for prospective bidders  
25 described in subdivisions (b) to (m), inclusive, of Section 20111.6  
26 of the Public Contract Code, including the requirement for the  
27 completion and submission of a standardized prequalification  
28 questionnaire and financial statement that is verified under oath  
29 and is not a public record.

30 (b) A rental of property that complies with subdivision (a) as it  
31 reads on the day that the lease is entered into shall be deemed to  
32 have thereby required the payment of adequate consideration for  
33 purposes of Section 6 of Article XVI of the California Constitution.

1 (c) This section shall remain in effect only until January 1, 2019,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2019, deletes or extends that date.

4 SEC. 2. Section 17406 of the Education Code, as added by  
5 Section 2 of Chapter 408 of the Statutes of 2014, is amended to  
6 read:

7 17406. (a) Notwithstanding Section 17417, the governing  
8 board of a school district, ~~without advertising for bids,~~ *district* may  
9 let, for a minimum rental of one dollar (\$1) a year, to any person,  
10 firm, or corporation any real property that belongs to the *school*  
11 district if the instrument by which this property is let requires the  
12 lessee to construct on the demised premises, or provide for the  
13 construction thereon of, a building or buildings for the use of the  
14 school district during the term of the lease, and provides that title  
15 to that building shall vest in the school district at the expiration of  
16 that term. The instrument may provide for the means or methods  
17 by which that title shall vest in the school district ~~prior to~~ *before*  
18 the expiration of that term, and shall contain other terms and  
19 conditions as the governing board *of the school district* may deem  
20 to be in the best interest of the school district.

21 (b) Any rental of property that complies with subdivision (a)  
22 shall be deemed to have thereby required the payment of adequate  
23 consideration for purposes of Section 6 of Article XVI of the  
24 California Constitution.

25 (c) This section shall become operative on January 1, 2019.