

## Assembly Bill No. 865

### CHAPTER 629

An act to amend Section 17285 of the Education Code, relating to school facilities.

[Approved by Governor October 3, 1997. Filed  
with Secretary of State October 6, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 865, Pringle. School facilities.

Under existing law a leased building that does not meet the specified safety requirements of the Field Act may not be used as a school building after September 1, 1990. Existing law imposes on members of the governing board of a school district and the school district liability for injury to persons and property resulting from the fact a building is used as a school, and the building has not been built to meet the requirements of the Field Act. Existing law also makes it a felony for any person to violate designated provisions of the Field Act.

This bill would provide that a school district may lease a commercial building prior to January 1, 2003, that does not meet the requirements of the Field Act, for use as a school building, as defined, if the governing board of the school district finds that the building was constructed in accordance with seismic safety standards for commercial buildings constructed within an earthquake zone, the building permit for the initial construction of the building was issued on or after January 1, 1990, a structural engineer inspected the building and submitted a report, as specified, to the governing board of the school district, and the governing board submitted the report to the Division of the State Architect to determine if the building is in substantial compliance with the Field Act, as specified. This bill would also limit the personal liability, as specified, of school employees and members of governing boards of school districts when the commercial building does not meet the requirements of the Field Act, as specified. This bill would specify that the limitation of personal liability for school employees and members of governing boards of school districts is not intended to limit the liability of the school district or to limit the liability of the school district for the actions of the governing board members and district employees. This bill would specify that the provision making it a felony to violate the Field Act does not apply to a building leased or used, as specified.

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

SECTION 1. Section 17285 of the Education Code is amended to read:

17285. (a) Notwithstanding any provision of law except Sections 17286, 17287, 17405, and this section, a leased building that does not meet the requirements of Section 17280 may not be used as a school building, as defined in Section 17283, after September 1, 1990.

(b) A school district may lease a commercial building prior to January 1, 2003, that does not meet the requirements of Section 17280, for use as a school building, as defined in Section 17283, if the governing board of the district finds that all of the following conditions have been met:

(1) The building was constructed in accordance with seismic safety standards for commercial buildings constructed within an earthquake zone.

(2) The building permit for the initial construction of the building was issued on or after January 1, 1990.

(3) A structural engineer has inspected the building and submitted a report to the governing board of the school district that certifies that the building is in substantial compliance with the requirements of the Field Act. This certification requirement is satisfied if the structural engineer affixes his or her seal of approval to the report and he or she attests in that report that to the best of his or her knowledge:

(A) He or she has reviewed the design calculations, construction documents, and the local government construction inspection records of the building to the extent available.

(B) He or she has authorized testing and has observed or reviewed the test results and the inspections of an adequate sample of the structure's welds, anchor bolts, and other structural elements.

(C) He or she has observed that the overhead nonstructural elements, including, but not limited to, light fixtures, heating, and air-conditioning diffusers are adequately braced or anchored.

The governing board of the school district shall submit the report to the Division of the State Architect for its review. The Division of the State Architect has one month to review the report for compliance with the above requirements, and to provide feedback to the structural engineer regarding any insufficiencies with the report, and whether or not the building is in substantial compliance with the requirements of the Field Act. If the Division of the State Architect does not respond within one month of the final and complete report being submitted, the Division of the State Architect will be deemed to have concurred with the structural engineer's report. A final decision by the governing board of the school district to occupy the building for school purposes shall not occur until the governing board has reviewed and considered the feedback of the



Division of the State Architect, or the one month review period has passed.

No member of the governing board of a school district, nor any employee of a school district, shall be held personally liable for injury to persons or damage to property resulting from the fact that the governing board of the school district used a commercial building pursuant to this subdivision for a school and the building was not constructed under the requirements of Section 17280. This exemption from personal liability for members of the governing board and employees of a school district is not intended to limit the liability of the school district for injury to persons or damage to property resulting from the fact that the governing board or any employee of the school district used a commercial building pursuant to this subdivision for a school and the building was not constructed under the requirements of Section 17280. This exemption from personal liability for members of the governing board and employees of a school district is not intended to limit the liability of the school district, the governing board or the district's employees pursuant to Section 835 of the Government Code. Section 17312 is not applicable to a person who, pursuant to this section, leases or uses a building for a school building that meets the requirements of this section but does not meet the requirements of Section 17280. Approval and use of a building pursuant to subdivision (b) of Section 17285 does not constitute a violation of the Field Act.

(c) A building leased pursuant to Section 17280 may be used after September 1, 1991, as a regional occupational center or program that does not meet the requirements of Section 17280, provided the building satisfies all of the following conditions:

(1) The facility is one of the following:

- (A) A single-story, wood-framed structure.
- (B) A single-story, light steel frame structure.

(C) A structure for which a structural engineer has submitted a report that certifies that substantial structural hazards do not exist, as to that structure. The governing board of the regional occupational center or program, as provided for under Section 52310.5, shall review the report prior to approval of the lease and may reject the report if there is any evidence of fraud regarding the facts in the report.

(2) The building or structure complies with all applicable local building standards and all applicable local health and safety standards in the community in which it is located.

(3) The governing board of the regional occupational center or program, as provided for under Section 52310.5, certifies to the State Allocation Board that reasonable efforts have been made to locate the regional occupational center or program in facilities that conform to the seismic safety standards set forth in Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4



(commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(d) On or before September 1, 1994, and every three years thereafter, each governing board of a regional occupational center or program shall report to the State Allocation Board on the facilities utilized for the operation of that center or program and on efforts to place the center or program in facilities that conform to the seismic safety standards described in paragraph (3) of subdivision (b).

