

COMMITTEE ON RULES
SENATE AMENDMENTS TO S.B. 1640
(Reference to FINANCE Committee amendment)

1 Page 1, strike lines 20 through 25

2 Strike pages 2 through 5

3 Page 6, strike lines 1 and 2; insert:

4 "A. A credit is allowed against the taxes imposed by this title ~~in~~
5 ~~the amount of thirty percent of the value of real property and improvements~~
6 ~~donated~~ FOR DONATIONS by the taxpayer to a school district or a charter
7 school for REAL PROPERTY AND IMPROVEMENTS TO use as a school or as a site
8 for the construction of a school AND FOR CASH CONTRIBUTIONS. THE AMOUNT OF
9 THE CREDIT IS AS FOLLOWS:

10 1. AN AMOUNT EQUAL TO THIRTY PERCENT OF THE VALUE OF REAL PROPERTY
11 AND IMPROVEMENTS DONATED BY THE TAXPAYER TO A SCHOOL DISTRICT OR A CHARTER
12 SCHOOL FOR USE AS A SCHOOL OR AS A SITE FOR THE CONSTRUCTION OF A SCHOOL.

13 2. AN AMOUNT EQUAL TO SIXTY PERCENT OF THE VALUE OF A REAL PROPERTY
14 AND IMPROVEMENTS FOR USE AS A SCHOOL OR AS A SITE FOR THE CONSTRUCTION OF A
15 SCHOOL OR CASH CONTRIBUTIONS DONATED BY THE TAXPAYER TO A SCHOOL DISTRICT
16 FOR A SCHOOL OR A CHARTER SCHOOL THAT MEETS THE REQUIREMENTS OF SUBSECTION
17 B, PARAGRAPH 4 OF THIS SECTION FOR A SCHOOL THAT IS OPERATED BY A SCHOOL
18 DISTRICT OR A CHARTER SCHOOL TO INCREASE STUDENT ENROLLMENT AT THE SCHOOL
19 FOR WHICH THERE IS A WAITING LIST.

20 B. To qualify for the credit:

21 1. The real property and improvements must be located in this state.

22 2. The real property and improvements must be conveyed unencumbered
23 and in fee simple, except that:

24 (a) The conveyance must include as a deed restriction and protective
25 covenant running with title to the land the requirement that as long as the

1 donee holds title to the property the property shall only be used as a
2 school or as a site for the construction of a school, subject to subsection
3 I or J of this section.

4 (b) In the case of a donation to a charter school, the donor shall
5 record a lien on the property as provided by subsection J, paragraph 3 of
6 this section.

7 3. The conveyance shall not violate section 15-341, subsection D or
8 section 15-183, subsection U.

9 4. FOR THE CREDIT AMOUNT ALLOWED UNDER SUBSECTION A, PARAGRAPH 2 OF
10 THIS SECTION, THE TAXPAYER MUST DONATE TO A SCHOOL THAT IS OPERATED BY A
11 SCHOOL DISTRICT OR CHARTER SCHOOL THAT MEETS THE FOLLOWING REQUIREMENTS:

12 (a) HAS A WAITING LIST BASED ON THE PRIOR YEAR'S ONE HUNDREDTH-DAY
13 AVERAGE DAILY MEMBERSHIP THAT IS VERIFIED BY A THIRD PARTY AND THAT IS
14 EQUAL TO OR GREATER THAN TWENTY PERCENT OF THE PREVIOUS YEAR'S STUDENT
15 ENROLLMENT.

16 (b) HAS BEEN ASSIGNED A LETTER GRADE OF A OR B IN THE MOST RECENT
17 ACADEMIC YEAR PURSUANT TO SECTION 15-241.

18 C. For the purposes of this section, the value of the donated
19 property is the property's fair market value as determined in an appraisal
20 as defined in section 32-3601 that is conducted by an independent party and
21 that is paid for by the donee.

22 D. If the property is donated by co-owners, including ~~individual~~
23 partners in a partnership AND SHAREHOLDERS OF AN S CORPORATION AS DEFINED
24 IN SECTION 1361 OF THE INTERNAL REVENUE CODE, each donor may claim only the
25 pro rata share of the allowable credit under this section based on the
26 ownership interest. If the property is donated by a husband and wife who
27 file separate returns for a taxable year in which they could have filed a
28 joint return, they may determine between them the share of the credit each
29 will claim. The total of the credits allowed all co-owner donors may not
30 exceed the allowable credit.

31 E. If the allowable tax credit exceeds the taxes otherwise due under
32 this title on the claimant's income, or if there are no taxes due under

1 this title, the taxpayer may carry the amount of the claim not used to
2 offset the taxes under this title forward for not more than five
3 consecutive taxable years' income tax liability.

4 F. The credit under this section is in lieu of any deduction
5 pursuant to section 170 of the internal revenue code taken for state tax
6 purposes.

7 G. On written request by the donee, the donor shall disclose in
8 writing to the donee the amount of the credit allowed pursuant to this
9 section with respect to the property received by the donee.

10 H. A school district or charter school may refuse the donation of
11 any property for purposes of this section.

12 I. If the donee is a school district:

13 1. The district shall notify the school facilities board established
14 by section 15-2001 and furnish the board with any information the board
15 requests regarding the donation. A school district shall not accept a
16 donation **OF REAL PROPERTY AND IMPROVEMENTS** pursuant to this section unless
17 the school facilities board has reviewed the proposed donation and has
18 issued a written determination that the real property and improvements are
19 suitable as a school site or as a school. The school facilities board
20 shall issue a determination that the real property and improvements are not
21 suitable as a school site or as a school if the expenses that would be
22 necessary to make the property suitable as a school site or as a school
23 exceed the value of the proposed donation.

24 2. The district may sell any donated property pursuant to section
25 15-342, but the proceeds from the sale shall **only** be used **ONLY** for capital
26 projects. The school facilities board shall withhold an amount that
27 corresponds to the amount of the proceeds from any monies that would
28 otherwise be due the school district from the school facilities board
29 pursuant to section 15-2041.

30 J. If the donee is a charter school:

31 1. The charter school shall:

1 (a) Immediately notify the sponsor of the charter school by
2 certified mail and shall furnish the sponsor with any information requested
3 by the sponsor regarding the donation during the ~~ten-year~~ TEN-YEAR period
4 after the conveyance is recorded.

5 (b) Notify the sponsor by certified mail, and the sponsor shall
6 notify the state treasurer, in the event of the charter school's financial
7 failure or if the charter school:

8 (i) Fails to establish a charter school on the property within
9 forty-eight months after the conveyance is recorded.

10 (ii) Fails to provide instruction to pupils on the property within
11 forty-eight months after the conveyance is recorded.

12 (iii) Establishes a charter school on the property but subsequently
13 ceases to operate the charter school on the property for twenty-four
14 consecutive months or fails to provide instruction to pupils on the
15 property for twenty-four consecutive months.

16 2. The charter school, or a successor in interest, shall pay to the
17 state treasurer the amount of the credit allowed under this section, or if
18 that amount is unknown, the amount of the allowable credit under this
19 section, if any of the circumstances listed in paragraph 1, subdivision (b)
20 of this subsection occurs. If the amount is not paid within one year after
21 the treasurer receives notice under paragraph 1, subdivision (b) of this
22 subsection, a penalty and interest shall be added, determined pursuant to
23 title 42, chapter 1, article 3.

24 3. A tax credit under this section constitutes a lien on the
25 property, which the donor must record along with the title to the property
26 to qualify for the credit. The amount of the lien is the amount of the
27 allowable credit under this section, adjusted according to the average
28 change in the GDP price deflator, as defined in section 41-563, for each
29 calendar year since the donation, but not exceeding twelve and one-half
30 percent more than the allowable credit. The lien is subordinate to any
31 liens securing the financing of the school construction. The lien is
32 extinguished on the earliest of the following:

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1 (a) Ten years after the lien is recorded. After that date, the
2 charter school, or a successor in interest, may request the state treasurer
3 to release the lien.

4 (b) On payment to the state treasurer by the donee charter school,
5 or by a successor in interest, of the amount of the allowable credit under
6 this section, either voluntarily or as required by paragraph 2 of this
7 subsection. After the required amount is paid, the charter school or
8 successor in interest may request the state treasurer to release the lien.

9 (c) On conveyance of fee simple title to the property to a school
10 district.

11 (d) On enforcement and satisfaction of the lien pursuant to
12 paragraph 4 of this subsection.

13 4. The state treasurer shall enforce the lien by foreclosure within
14 one year after receiving notice of any of the circumstances described in
15 paragraph 1, subdivision (b) of this subsection.

16 5. Subject to paragraphs 3 and 4 of this subsection, the charter
17 school may sell any donated property.

18 Amend title to conform

1640RULES
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