

# Senate Education Committee

*Ava Hawkes 271-4151*

**HB 278**, relative to the use of unused district facilities by chartered public schools.

**Hearing Date:** April 20, 2021

**Time Opened:** 10:45 a.m.

**Time Closed:** 11:05 a.m.

**Members of the Committee Present:** Senators Ward, Hennessey, Ricciardi and Prentiss

**Members of the Committee Absent :** Senator Kahn

**Bill Analysis:** This bill makes unused school district facilities available to chartered public schools.

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**Sponsors:**

Rep. Hill

Rep. Ladd

Rep. Turcotte

Rep. Silber

Rep. Rice

Rep. Rouillard

Rep. Weyler

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**Who supports the bill:** Representative Greg Hill, Representative Maureen Mooney, Representative Deborah Hobson, Representative Erica Layon, Representative Glenn Cordelli, Representative Judy Aron, Representative Rick Ladd, Alvin See, Robert Best, Eric Pauer, Matt Southerton, Kimberly Lavallee

**Who opposes the bill:** 58 people signed up in opposition to this bill. Full sign-in sheet available upon request.

**Who is neutral on the bill:** None.

**Summary of testimony presented:**

**Representative Gregory Hill – Merrimack, District 3**

- This is the third time he’s filed legislation around this idea.
- This bill is different, in subtle ways, in comparison to SB 81.
- As it stands, this bill has passed both chambers each year it comes up, then something comes up and it gets derailed.
- In a survey of 28 charter schools this year, asking if they lease their own space, who from, and if they pay real estate taxes, the following were the results:
  - 5 out of 28 own their space and pay no income taxes.
  - 7 out of 28 leases from a nonprofit.

- 6 out of 28 leases from their school district.
- 10 out of 28 leases from a for-profit company.
  - Due to lack of suitable space, for-profits have real estate taxes rolled into their leases.
  - One does not have them rolled in, however, they pay \$87,654 in property taxes. That significant amount of money could be used for classroom programming.
- This is not the only expense that is upsetting.
- Charters, which lease commercial space, have to spend a considerable amount of money to renovate these spaces to make them suitable for educational purposes. For instance, kitchen spaces must be built to be entitled to Title I money.
- There is often little to no play space.
- Other public school children have all of these things.
- This legislation is designed to give all public school children a place to thrive.
- The only thing mandated in this bill is that public schools think about their plans and offer it to charter schools first.
- This benefits taxpayers and all NH public school children.
- Senator Hennessey asked Representative Hill if his understanding is that local school districts would not be forced to sell to a charter school, but facilities could be sold at a higher cost if offered by another entity.
  - Representative Hill said yes, that is his understanding. The key phrase in the legislation is “market price” when a school district is trying to sell/lease their existing building to a for-profit entity.
  - All this bill does is require a public school to offer to their space to a charter for the same market price.
  - He can’t see this competition issue coming up often; if a large, conglomerate corporation made an offer for a space, a charter could not compete anyway. This is why he thinks it’s specious argument.
  - The goal is to do it all above board with best practices in mind.
- Senator Prentiss asked Representative Hill if this bill is more focused on facilitation instead of first right of refusal.
  - Representative Hill said this bill is creating a marketplace for public school buildings to be made aware of by charter schools.
  - Then, both parties can negotiate in good faith.
  - There are only a few differences between SB 81 and HB 278: it is how charter schools and others get connected.
  - Some language from SB 81 created an unfunded mandate by sending out certified mailings. That was removed in this bill and everything would be handled at a department level.
- Senator Prentiss asked Representative Hill if he meant department level of a local school board or supervisory unit or NHDOE.

- Rep. Hill said NHDOE. The traditional public school district would deal with the Charter School Administrator at NHDOE.

### **Representative Maureen Mooney – Hillsborough, District 21**

- Supports this bill.
- Vast majority of NH charter schools lease their facilities and often it is commercial space which requires advanced modifications.
- This bill would give first offer to underutilized space which exists specifically for educating children.
- This bill benefits K-12 students and taxpayers throughout the state.

### **Barrett Christina – Executive Director, NH School Board Association**

- Opposed to this bill.
- Presented similar testimony on SB 81.
- One issue with the language is the reference to spaces with less than 10% square footage. This begs the question as to how many school buildings are still functional if less than 10%.
- If the intent of the bill is to identify schools which have shuttered or closed, you should state that instead.
- The language around spaces used for direct student instruction is not always clear. For example, cafeterias, gyms, auditoriums, etc. are dual purpose spaces. He is unsure how this will be calculated under direct student instruction space.
- In most cases, unused space is likely unused because it is unusable, i.e. asbestos, not in compliance with ADA, air quality concerns.
- There is a need to ascertain why building is being unused.
- There is a significant issue with aging infrastructure in our state.
- How truly usable is a building that was built 100 years ago.
- With regard to spaces or schools that are designed to be learning centers, if shuttered, it likely does not meet 21<sup>st</sup> century building needs/requirements.
- As for lines 13-14 of the bill, related to fair market value, how does one ascertain the fair market value for a shuttered school.
- Doubts there are comparables from across the state for shuttered schools.
- It is important to note the difference between per-student adequacy aid for chartered school students versus traditional public school students. Public school students receive less aid.
- This bill exemplifies how the amount of adequacy aid is not sufficient to operate school facilities, for both traditional public schools and chartered schools.
- If we want to look at how to make it easier for charter schools to acquire space, we need to look at funding building aid.

- School districts are not in the business of being landlords. Unsure if school districts, boards, superintendents, etc. want to be landlords to ensure lease provisions are being complied to.
- In reference to the study presented earlier, in how 10 out of 28 charter schools are leasing space from for-profit landlords and property taxes are being incorporated in monthly lease payments, a better alternative might be a tax credit to folks leasing to schools.
- Senator Ward asked Mr. Christina if he could jot down his objections and send them to the committee. Mr. Christina said certainly.

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Date Hearing Report completed: April 21, 2021