



Ohio Revised Code

Section 118.28 Severability - construction.

Effective: September 3, 1996

Legislation: House Bill 462 - 121st General Assembly

(A) Subject to division (B) of this section, in case any section or provision of this chapter, including any condition or prerequisite to any action or determination thereunder, or in case any act or action, or part thereof, made or taken under this chapter, or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision of this chapter, including any condition or prerequisite to any action or determination thereunder, or any agreement, act or action, or part thereof, made, entered into, or taken under such chapter, which shall be construed and enforced and applied as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity or any application thereof affect any legal and valid application thereof, and each such section, provision, agreement, act, or action, or part thereof, shall be deemed to be effective, operative, made, and entered into or taken in the manner and to the full extent permitted by law.

(B) Division (A) of this section and section 1.50 of the Revised Code are subject to the following exceptions:

(1) It is the intention of the general assembly that any act of the municipal corporation, county, or township authorized to be taken under this chapter only with the consent or approval of the financial planning and supervision commission or, when authorized by the commission, the financial supervisor would not have been authorized in the absence of and is inseparable from such provision for consent or approval so that if a provision for consent or approval by the commission or financial supervisor under this chapter is for any reason held to be illegal or invalid, the authorization of the action which is subject to such consent or approval shall likewise be deemed illegal or invalid and not to exist under this chapter.

(2) To the extent that any act of the municipal corporation, county, or township which is authorized by law, other than this chapter, is conditioned by this chapter upon, or is subjected to a prerequisite by this chapter as to, the preparation, submission, or approval of, or consistency with, a financial plan, or as to consent to or approval by the commission or financial supervisor of any such act of the



municipal corporation, county, or township, if for any reason such condition or prerequisite is held to be illegal or invalid, such act by the municipal corporation, county, or township shall be deemed to be and is hereby restricted, to the extent that the general assembly has authority under the constitution to restrict such act, so that it may not be taken or done by the municipal corporation, county, or township until and unless the auditor of state, upon request of the mayor or presiding officer of the legislative authority of the municipal corporation, county, or township, determines in writing that none of the fiscal emergency conditions determined to exist pursuant to section 118.04 of the Revised Code continues to exist.

(3) Divisions (B)(1) and (2) of this section apply only to acts of the municipal corporation, county, or township occurring after a court has determined such illegality or invalidity and any act of the municipal corporation, county, or township prior thereto, and its binding effect prior or subsequent to such determination, are not affected by such determination.

(C) The provisions of this chapter granting authority to the commission or the financial supervisor and providing for better security for and remedies of holders of debt obligations of the municipal corporation, county, or township shall be liberally construed to achieve the state public policy and the purposes stated and provided for by this chapter.

(D) Any act of the commission or the financial supervisor under this chapter shall be presumed to be valid and for all purposes shall be conclusively valid unless in an appropriate court action in which the commission is duly made a party it is shown by clear and convincing evidence that no basis existed upon which such act could have been sustained under the law and that the commission's or financial supervisor's act was grossly arbitrary; provided that no such action may affect the reliability and conclusiveness of certifications and approvals by the commission or the financial supervisor as provided in section 118.15 of the Revised Code.

(E) Any action or proceeding bringing into question the interpretation, legality, or validity of any provision of this chapter, the existence or authority, or the legality or validity of any act, of the commission or the financial supervisor, or of any action taken under this chapter, is a matter of great public interest to the state and shall be advanced on the docket of the court and expedited to final determination.