



## Ohio Revised Code

### Section 123.281 Construction and construction services for cultural facilities; state financing.

Effective: September 29, 2015

Legislation: House Bill 64 - 131st General Assembly

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(A) The Ohio facilities construction commission shall provide for the construction of a cultural project in conformity with Chapter 153. of the Revised Code, except for construction services provided on behalf of the state by a governmental agency or a cultural organization in accordance with divisions (B) and (C) of this section.

(B) In order for a governmental agency or a cultural organization to provide construction services on behalf of the state for a cultural project, other than a state historical facility, for which the general assembly has made an appropriation or specifically authorized the spending of money or the making of rental payments relating to the financing of the construction, the governmental agency or cultural organization shall submit to the Ohio facilities construction commission a cooperative use agreement that includes, but is not limited to, provisions that:

(1) Specify how the proposed project will support culture;

(2) Specify that the governmental agency or cultural organization has local contributions amounting to not less than fifty per cent of the total state funding for the cultural project;

(3) Specify that the funds shall be used only for construction;

(4) Identify the facility to be constructed, renovated, remodeled, or improved;

(5) Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready to support culture without exceeding appropriated funds;

(6) Specify that the governmental agency or cultural organization shall hold the Ohio facilities construction commission harmless from all liability for the operation and maintenance costs of the facility;



(7) Specify that the agreement or any actions taken under it are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.20, 123.201, 123.21, 123.28, 123.281, and 153.011 of the Revised Code, and are subject to Chapter 4115. of the Revised Code; and

(8) Provide that amendments to the agreement shall require the approval of the Ohio facilities construction commission.

(C) In order for a cultural organization to provide construction services on behalf of the state for a state historical facility for which the general assembly has made an appropriation or specifically authorized the spending of money or the making of rental payments relating to the financing of the construction, the cultural organization shall submit to the Ohio facilities construction commission a cooperative use agreement that includes, but is not limited to, provisions that:

(1) Specify how the proposed project will support culture;

(2) Specify that the funds shall be used only for construction;

(3) Specify that not more than three per cent of the funds may be used by the cultural organization to administer the project;

(4) Identify the facility to be constructed, renovated, remodeled, or improved;

(5) Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready to support culture without exceeding appropriated funds;

(6) Specify that the cultural organization shall hold the Ohio facilities construction commission harmless from all liability for the operation and maintenance costs of the facility;

(7) Specify that the agreement or any actions taken under it are not subject to Chapter 123., 153., or 4115. of the Revised Code, except for sections 123.20, 123.201, 123.21, 123.28, and 123.281 of the Revised Code; and



(8) Provide that amendments to the agreement shall require the approval of the Ohio facilities construction commission.

(D) For an Ohio sports facility that is financed in part by obligations issued under Chapter 154. of the Revised Code, construction services shall be provided on behalf of the state by or at the direction of the governmental agency or nonprofit corporation that will own or be responsible for the management of the facility. Any construction services to be provided by a governmental agency or nonprofit corporation shall be specified in a cooperative use agreement between the Ohio facilities construction commission and the governmental agency or nonprofit corporation. The agreement and any actions taken under it are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.20, 123.201, 123.21, 123.28, 123.281, and 153.011 of the Revised Code, and are subject to Chapter 4115. of the Revised Code.

(E) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

(1) The Ohio facilities construction commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state.

(2) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

(3) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and



athletic events to the public at the facility.

(F) In addition to the requirements of division (E) of this section, no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility that is a motorsports complex, unless, with respect to that facility, both of the following apply:

(1) Motorsports events shall be presented at the facility pursuant to a lease entered into with the owner of the facility. The term of the lease shall be for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of state bonds as determined using the guidelines for maximum maturities as provided under divisions (B) and (C) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the executive director of the Ohio facilities construction commission and to the treasurer of state.

(2) Any motorsports organization that commits to using the facility for an established period of time shall give the political subdivision in which the facility is located not less than six months' advance notice if the organization intends to cease utilizing the facility prior to the expiration of that established period. Such a motorsports organization shall be liable to the state for any state funds used on the construction costs of the facility.

(G) In addition to the requirements of division (E) of this section, no state bond proceeds shall be spent on any Ohio sports facility that is a tennis facility, unless the owner or manager of the facility provides contractual commitments from a national or international professional tennis organization in a form acceptable to the Ohio facilities construction commission that assures that one or more sanctioned professional tennis events will be presented at the facility during each year that the bonds remain outstanding.