



## Ohio Revised Code

### Section 133.06 Net indebtedness of school district - certain securities not considered in calculation.

Effective: September 29, 2017

Legislation: House Bill 49 - General Assembly

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(A) A school district shall not incur, without a vote of the electors, net indebtedness that exceeds an amount equal to one-tenth of one per cent of its tax valuation, except as provided in divisions (G) and (H) of this section and in division (D) of section 3313.372 of the Revised Code, or as prescribed in section 3318.052 or 3318.44 of the Revised Code, or as provided in division (J) of this section.

(B) Except as provided in divisions (E), (F), and (I) of this section, a school district shall not incur net indebtedness that exceeds an amount equal to nine per cent of its tax valuation.

(C) A school district shall not submit to a vote of the electors the question of the issuance of securities in an amount that will make the district's net indebtedness after the issuance of the securities exceed an amount equal to four per cent of its tax valuation, unless the superintendent of public instruction, acting under policies adopted by the state board of education, and the tax commissioner, acting under written policies of the commissioner, consent to the submission. A request for the consents shall be made at least one hundred twenty days prior to the election at which the question is to be submitted.

The superintendent of public instruction shall certify to the district the superintendent's and the tax commissioner's decisions within thirty days after receipt of the request for consents.

If the electors do not approve the issuance of securities at the election for which the superintendent of public instruction and tax commissioner consented to the submission of the question, the school district may submit the same question to the electors on the date that the next special election may be held under section 3501.01 of the Revised Code without submitting a new request for consent. If the school district seeks to submit the same question at any other subsequent election, the district shall first submit a new request for consent in accordance with this division.

(D) In calculating the net indebtedness of a school district, none of the following shall be considered:



- (1) Securities issued to acquire school buses and other equipment used in transporting pupils or issued pursuant to division (D) of section 133.10 of the Revised Code;
  - (2) Securities issued under division (F) of this section, under section 133.301 of the Revised Code, and, to the extent in excess of the limitation stated in division (B) of this section, under division (E) of this section;
  - (3) Indebtedness resulting from the dissolution of a joint vocational school district under section 3311.217 of the Revised Code, evidenced by outstanding securities of that joint vocational school district;
  - (4) Loans, evidenced by any securities, received under sections 3313.483, 3317.0210, and 3317.0211 of the Revised Code;
  - (5) Debt incurred under section 3313.374 of the Revised Code;
  - (6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware;
  - (7) Debt incurred under section 3318.042 of the Revised Code;
  - (8) Debt incurred under section 5705.2112 or 5705.2113 of the Revised Code by the fiscal board of a qualifying partnership of which the school district is a participating school district.
- (E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.
- (1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:
    - (a) The student population is not being adequately serviced by the existing permanent improvements



of the district.

(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.

(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:

(a) The history of and a projection of the growth of the tax valuation;

(b) The projected needs;

(c) The estimated cost of permanent improvements proposed to meet such projected needs.

(3) The superintendent of public instruction shall certify the district as an approved special needs district if the superintendent finds both of the following:

(a) The district does not have available sufficient additional funds from state or federal sources to meet the projected needs.

(b) The projection of the potential average growth of tax valuation during the next five years, according to the information certified to the superintendent and any other information the superintendent obtains, indicates a likelihood of potential average growth of tax valuation of the district during the next five years of an average of not less than one and one-half per cent per year. The findings and certification of the superintendent shall be conclusive.

(4) An approved special needs district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in an amount that does not exceed an amount equal to the greater of the following:

(a) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage by which the tax valuation has increased over the tax valuation



on the first day of the sixtieth month preceding the month in which its board determines to submit to the electors the question of issuing the proposed securities;

(b) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage, determined by the superintendent of public instruction, by which that tax valuation is projected to increase during the next ten years.

(F) A school district may issue securities for emergency purposes, in a principal amount that does not exceed an amount equal to three per cent of its tax valuation, as provided in this division.

(1) A board of education, by resolution, may declare an emergency if it determines both of the following:

(a) School buildings or other necessary school facilities in the district have been wholly or partially destroyed, or condemned by a constituted public authority, or that such buildings or facilities are partially constructed, or so constructed or planned as to require additions and improvements to them before the buildings or facilities are usable for their intended purpose, or that corrections to permanent improvements are necessary to remove or prevent health or safety hazards.

(b) Existing fiscal and net indebtedness limitations make adequate replacement, additions, or improvements impossible.

(2) Upon the declaration of an emergency, the board of education may, by resolution, submit to the electors of the district pursuant to section 133.18 of the Revised Code the question of issuing securities for the purpose of paying the cost, in excess of any insurance or condemnation proceeds received by the district, of permanent improvements to respond to the emergency need.

(3) The procedures for the election shall be as provided in section 133.18 of the Revised Code, except that:

(a) The form of the ballot shall describe the emergency existing, refer to this division as the authority under which the emergency is declared, and state that the amount of the proposed securities exceeds the limitations prescribed by division (B) of this section;



(b) The resolution required by division (B) of section 133.18 of the Revised Code shall be certified to the county auditor and the board of elections at least one hundred days prior to the election;

(c) The county auditor shall advise and, not later than ninety-five days before the election, confirm that advice by certification to, the board of education of the information required by division (C) of section 133.18 of the Revised Code;

(d) The board of education shall then certify its resolution and the information required by division (D) of section 133.18 of the Revised Code to the board of elections not less than ninety days prior to the election.

(4) Notwithstanding division (B) of section 133.21 of the Revised Code, the first principal payment of securities issued under this division may be set at any date not later than sixty months after the earliest possible principal payment otherwise provided for in that division.

(G)(1) The board of education may contract with an architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures for an analysis and recommendations pertaining to installations, modifications of installations, or remodeling that would significantly reduce energy consumption in buildings owned by the district. The report shall include estimates of all costs of such installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, measurement and verification of energy savings, and debt service, forgone residual value of materials or equipment replaced by the energy conservation measure, as defined by the Ohio facilities construction commission, a baseline analysis of actual energy consumption data for the preceding three years with the utility baseline based on only the actual energy consumption data for the preceding twelve months, and estimates of the amounts by which energy consumption and resultant operational and maintenance costs, as defined by the commission, would be reduced.

If the board finds after receiving the report that the amount of money the district would spend on such installations, modifications, or remodeling is not likely to exceed the amount of money it would save in energy and resultant operational and maintenance costs over the ensuing fifteen years, the board may submit to the commission a copy of its findings and a request for approval to incur



indebtedness to finance the making or modification of installations or the remodeling of buildings for the purpose of significantly reducing energy consumption.

The facilities construction commission, in consultation with the auditor of state, may deny a request under division (G)(1) of this section by the board of education of any school district that is in a state of fiscal watch pursuant to division (A) of section 3316.03 of the Revised Code, if it determines that the expenditure of funds is not in the best interest of the school district.

No district board of education of a school district that is in a state of fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code shall submit a request without submitting evidence that the installations, modifications, or remodeling have been approved by the district's financial planning and supervision commission established under section 3316.05 of the Revised Code.

No board of education of a school district for which an academic distress commission has been established under section 3302.10 of the Revised Code shall submit a request without first receiving approval to incur indebtedness from the district's academic distress commission established under that section, for so long as such commission continues to be required for the district.

(2) The board of education may contract with a person experienced in the implementation of student transportation to produce a report that includes an analysis of and recommendations for the use of alternative fuel vehicles by school districts. The report shall include cost estimates detailing the return on investment over the life of the alternative fuel vehicles and environmental impact of alternative fuel vehicles. The report also shall include estimates of all costs associated with alternative fuel transportation, including facility modifications and vehicle purchase costs or conversion costs.

If the board finds after receiving the report that the amount of money the district would spend on purchasing alternative fuel vehicles or vehicle conversion is not likely to exceed the amount of money it would save in fuel and resultant operational and maintenance costs over the ensuing five years, the board may submit to the commission a copy of its findings and a request for approval to incur indebtedness to finance the purchase of new alternative fuel vehicles or vehicle conversions for the purpose of reducing fuel costs.



The facilities construction commission, in consultation with the auditor of state, may deny a request under division (G)(2) of this section by the board of education of any school district that is in a state of fiscal watch pursuant to division (A) of section 3316.03 of the Revised Code, if it determines that the expenditure of funds is not in the best interest of the school district.

No district board of education of a school district that is in a state of fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code shall submit a request without submitting evidence that the purchase or conversion of alternative fuel vehicles has been approved by the district's financial planning and supervision commission established under section 3316.05 of the Revised Code.

No board of education of a school district for which an academic distress commission has been established under section 3302.10 of the Revised Code shall submit a request without first receiving approval to incur indebtedness from the district's academic distress commission established under that section, for so long as such commission continues to be required for the district.

(3) The facilities construction commission shall approve the board's request provided that the following conditions are satisfied:

(a) The commission determines that the board's findings are reasonable.

(b) The request for approval is complete.

(c) If the request was submitted under division (G)(1) of this section, the installations, modifications, or remodeling are consistent with any project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities under sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

Upon receipt of the commission's approval, the district may issue securities without a vote of the electors in a principal amount not to exceed nine-tenths of one per cent of its tax valuation for the purpose specified in division (G)(1) or (2) of this section, but the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except



section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation.

(4)(a) So long as any securities issued under division (G)(1) of this section remain outstanding, the board of education shall monitor the energy consumption and resultant operational and maintenance costs of buildings in which installations or modifications have been made or remodeling has been done pursuant to that division. Except as provided in division (G)(4)(b) of this section, the board shall maintain and annually update a report in a form and manner prescribed by the facilities construction commission documenting the reductions in energy consumption and resultant operational and maintenance cost savings attributable to such installations, modifications, or remodeling. The resultant operational and maintenance cost savings shall be certified by the school district treasurer. The report shall be submitted annually to the commission.

(b) If the facilities construction commission verifies that the certified annual reports submitted to the commission by a board of education under division (G)(4)(a) of this section fulfill the guarantee required under division (B) of section 3313.372 of the Revised Code for three consecutive years, the board of education shall no longer be subject to the annual reporting requirements of division (G)(4)(a) of this section.

(5) So long as any securities issued under division (G)(2) of this section remain outstanding, the board of education shall monitor the purchase of new alternative fuel vehicles or vehicle conversions pursuant to that division. The board shall maintain and annually update a report in a form and manner prescribed by the facilities construction commission documenting the purchase of new alternative fuel vehicles or vehicle conversions, the associated environmental impact, and return on investment. The resultant fuel and operational and maintenance cost savings shall be certified by the school district treasurer. The report shall be submitted annually to the commission.

(H) With the consent of the superintendent of public instruction, a school district may incur without a vote of the electors net indebtedness that exceeds the amounts stated in divisions (A) and (G) of this section for the purpose of paying costs of permanent improvements, if and to the extent that both of the following conditions are satisfied:

(1) The fiscal officer of the school district estimates that receipts of the school district from payments made under or pursuant to agreements entered into pursuant to section 725.02, 1728.10, 3735.671,





5709.081, 5709.082, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised Code, or distributions under division (C) of section 5709.43 or division (B) of section 5709.47 of the Revised Code, or any combination thereof, are, after accounting for any appropriate coverage requirements, sufficient in time and amount, and are committed by the proceedings, to pay the debt charges on the securities issued to evidence that indebtedness and payable from those receipts, and the taxing authority of the district confirms the fiscal officer's estimate, which confirmation is approved by the superintendent of public instruction;

(2) The fiscal officer of the school district certifies, and the taxing authority of the district confirms, that the district, at the time of the certification and confirmation, reasonably expects to have sufficient revenue available for the purpose of operating such permanent improvements for their intended purpose upon acquisition or completion thereof, and the superintendent of public instruction approves the taxing authority's confirmation.

The maximum maturity of securities issued under division (H) of this section shall be the lesser of twenty years or the maximum maturity calculated under section 133.20 of the Revised Code.

(I) A school district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in excess of the limit specified in division (B) or (C) of this section when necessary to raise the school district portion of the basic project cost and any additional funds necessary to participate in a project under Chapter 3318. of the Revised Code, including the cost of items designated by the facilities construction commission as required locally funded initiatives, the cost of other locally funded initiatives in an amount that does not exceed fifty per cent of the district's portion of the basic project cost, and the cost for site acquisition. The commission shall notify the superintendent of public instruction whenever a school district will exceed either limit pursuant to this division.

(J) A school district whose portion of the basic project cost of its classroom facilities project under sections 3318.01 to 3318.20 of the Revised Code is greater than or equal to one hundred million dollars may incur without a vote of the electors net indebtedness in an amount up to two per cent of its tax valuation through the issuance of general obligation securities in order to generate all or part of the amount of its portion of the basic project cost if the controlling board has approved the facilities construction commission's conditional approval of the project under section 3318.04 of the



Revised Code. The school district board and the Ohio facilities construction commission shall include the dedication of the proceeds of such securities in the agreement entered into under section 3318.08 of the Revised Code. No state moneys shall be released for a project to which this section applies until the proceeds of any bonds issued under this section that are dedicated for the payment of the school district portion of the project are first deposited into the school district's project construction fund.

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*The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.*