



Ohio Revised Code

Section 154.21 Capital facilities for state-supported and state-assisted institutions of higher education.

Effective: July 3, 2012

Legislation: House Bill 482 - 129th General Assembly

(A) Subject to authorization by the general assembly under section 154.02 of the Revised Code, the issuing authority may authorize and issue obligations pursuant to this chapter to pay the cost of capital facilities for state-supported and state-assisted institutions of higher education.

(B) Capital facilities for institutions of higher education financed under this section may be leased by the commission to institutions of higher education or to the Ohio board of regents for the use of institutions of higher education, and such parties may make other agreement for the use or sale and purchase of the facilities; the Ohio board of regents may sublease such capital facilities to institutions of higher education, and such parties may make other agreement for the use or sale and purchase of the facilities, in any manner permitted by the lease or agreement between the commission and the Ohio board of regents; all upon such terms and conditions as the parties may agree upon and pursuant to this chapter, notwithstanding other provisions of law affecting the leasing, acquisition, or disposition of capital facilities by such parties. Any such leases, subleases, or agreements may contain provisions setting forth the responsibilities of the commission or issuing authority, institutions of higher education, and Ohio board of regents as to the financing, construction, operation, maintenance, and insuring of such facilities and other terms and conditions applicable thereto, including designation of the "owner" for purposes of Chapter 153. of the Revised Code, and any other provisions mutually agreed upon for the purposes of this chapter. Promptly upon execution thereof, a signed or conformed copy of each such lease or agreement, and any supplement thereto, between an institution of higher education or the Ohio board of regents and the commission shall be filed by the commission with the Ohio board of regents, the issuing authority, and the director of budget and management, and promptly upon execution thereof, a signed or conformed copy of each such sublease or agreement between the Ohio board of regents and an institution of higher education shall be filed by the Ohio board of regents with the commission and the director.

(C) For purposes of this section, "available receipts" means fees, tuitions, charges, revenues, and all



other receipts of or on behalf of state-supported and state-assisted institutions of higher education, any revenues or receipts derived by the commission from the operation, leasing, or other disposition of capital facilities financed under this section, the proceeds of obligations issued under this section and sections 154.11 and 154.12 of the Revised Code, and also means any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges on such obligations. Subject to any pledge of that portion of available receipts, comprised of fees, tuitions, charges, revenues, and receipts derived directly by an institution of higher education, which has been or may thereafter be made pursuant to section 3345.07, 3345.11, 3345.12, 3349.05, 3354.121, or 3357.112 of the Revised Code, the issuing authority may pledge all or such portion as that authority determines of the available receipts to the payment of bond service charges on obligations issued under this section and sections 154.11 and 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling, notwithstanding any other provision of law pertaining thereto.

(D) In the event that moneys in the higher education bond service fund and available receipts from payments to be made to the commission or issuing authority under leases and agreements with the Ohio board of regents, together with any other funds made available by the general assembly, will be insufficient, without application of reserves, for the payment of bond service charges and for the establishment and maintenance of reserves, as provided in the bond proceedings, then the commission, upon consultation with the institutions of higher education to be affected and the Ohio board of regents, may require the institutions of higher education to charge, collect, and transmit to the credit of the higher education bond service fund provided for in division (E) of this section, a special student fee, which may be a segregated part of the established instruction fee or other fee, in such amount or amounts as are necessary for the payment of the bond service charges on obligations issued under this section and sections 154.11 and 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings. Such special fee constitutes "available receipts" within the meaning thereof in division (C) of this section, and may be pledged as therein provided in addition to, or in lieu of, or to be applied prior to, other available receipts, as provided in the bond proceedings; provided, that such special fee shall not be deemed to be pledged by the institutions of higher education under section 3345.07, 3345.11, 3345.12, 3349.05, 3354.121, or 3357.112 of the Revised Code. The issuing authority may covenant in the bond proceedings to require such special fee to be charged, collected, and transmitted



pursuant to this division. In the event the initiation of such special fee is required in accordance with such covenant, the commission shall by rules transmitted to each institution of higher education affected thereby, fix, establish, and from time to time modify, as it may consider appropriate, the amount or amounts of the fee, exemptions therefrom, such distinctions, if any, as it may determine appropriate for full-time and part-time students or students enrolled in different programs, or other bases for distinction among students, so that students throughout the state in similar classifications under such rules are so far as feasible treated alike, and establish and from time to time modify other rules, procedures, and definitions for the charge, collection, and transmission of such special fees. Notwithstanding any other provision of law pertaining thereto, the governing boards of the institutions of higher education shall charge, collect, and transmit such special fee in accordance with such rules.

(E) There is hereby created the higher education bond service trust fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury. All moneys received by or on account of the commission or issuing authority and required by the applicable bond proceedings to be deposited, transferred, or credited to the higher education bond service trust fund, and all other moneys transferred or allocated to or received for the purposes of the higher education bond service trust fund, shall be deposited with the treasurer of state and credited to such fund, subject to any applicable provisions of the bond proceedings, without necessity for any act of appropriation. The higher education bond service trust fund is a trust fund and is hereby pledged to the payment of bond service charges on the obligations issued pursuant to this section and sections 154.11 and 154.12 of the Revised Code to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(F) There is hereby created in the state treasury the higher education improvement fund. Subject to the bond proceedings therefor, all of the proceeds of the sale of higher education obligations issued pursuant to this section or section 151.04 of the Revised Code shall be credited to the fund, except that any accrued interest received on obligations issued pursuant to this section shall be credited to the higher education bond service fund. The higher education improvement fund may also be comprised of gifts, grants, appropriated moneys, and other sums and securities received to the credit of such fund. The fund shall be applied only to the purpose of paying costs of capital facilities for



state-supported and state-assisted institutions of higher education, which may include participation with one or more such institutions of higher education in any such capital facilities by way of grants, loans, or contributions to them for such capital facilities.

(G) There is hereby created in the state treasury the higher education improvement taxable fund. Subject to the bond proceedings therefor, all of the net proceeds of higher education obligations issued pursuant to this section or section 151.04 of the Revised Code, the interest on which is not excluded from the calculation of gross income for federal income taxation purposes under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., shall be credited to the fund, except that any accrued interest received on obligations issued pursuant to this section shall be credited to the higher education bond service fund. The higher education improvement taxable fund may also be comprised of gifts, grants, appropriated moneys, and other sums and securities received to the credit of such fund. The fund shall be applied only to the purpose of paying costs of capital facilities for state-supported and state-assisted institutions of higher education, which may include participation with one or more such institutions of higher education in any such capital facilities by way of grants, loans, or contributions to them for such capital facilities.

(H) This section shall be applied with other applicable provisions of this chapter.

(I) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.