



## Ohio Revised Code

### Section 3315.18 Capital and maintenance fund.

Effective: September 30, 2021

Legislation: House Bill 110

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(A) The board of education of each city, exempted village, local, and joint vocational school district shall establish a capital and maintenance fund. Each board annually shall deposit into that fund an amount derived from revenues received by the district that would otherwise have been deposited in the general fund that is equal to three per cent of the statewide average base cost per pupil for the preceding fiscal year, as defined in section 3317.02 of the Revised Code, or another percentage if established by the auditor of state under division (B) of this section, multiplied by the district's student population for the preceding fiscal year, except that money received from a permanent improvement levy authorized by section 5705.21 of the Revised Code may replace general revenue moneys in meeting the requirements of this section. Money in the fund shall be used solely for acquisition, replacement, enhancement, maintenance, or repair of permanent improvements, as that term is defined in section 5705.01 of the Revised Code. Any money in the fund that is not used in any fiscal year shall carry forward to the next fiscal year.

(B) The state superintendent of public instruction and the auditor of state jointly shall adopt rules in accordance with Chapter 119. of the Revised Code defining what constitutes expenditures permitted by division (A) of this section. The auditor of state may designate a percentage, other than three per cent, of the statewide average base cost per pupil multiplied by the district's student population that must be deposited into the fund.

(C) Within its capital and maintenance fund, a school district board of education may establish a separate account solely for the purpose of depositing funds transferred from the district's reserve balance account established under former division (H) of section 5705.29 of the Revised Code. After April 10, 2001, a board may deposit all or part of the funds formerly included in such reserve balance account in the separate account established under this section. Funds deposited in this separate account and interest on such funds shall be utilized solely for the purpose of providing the district's portion of the basic project costs of any project undertaken in accordance with Chapter 3318. of the Revised Code.



(D)(1) Notwithstanding division (A) of this section, in any year a district is in fiscal emergency status as declared pursuant to section 3316.03 of the Revised Code, the district may deposit an amount less than required by division (A) of this section, or make no deposit, into the district capital and maintenance fund for that year.

(2) Notwithstanding division (A) of this section, in any fiscal year that a school district is either in fiscal watch status, as declared pursuant to section 3316.03 of the Revised Code, or in fiscal caution status, as declared pursuant to section 3316.031 of the Revised Code, the district may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district capital and maintenance fund for that year. The superintendent may grant a waiver under division (D)(2) of this section if the district demonstrates to the satisfaction of the superintendent that compliance with division (A) of this section that year will create an undue financial hardship on the district.

(3) Notwithstanding division (A) of this section, not more often than one fiscal year in every three consecutive fiscal years, any school district that does not satisfy the conditions for the exemption described in division (D)(1) of this section or the conditions to apply for the waiver described in division (D)(2) of this section may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district capital and maintenance fund for that year. The superintendent may grant a waiver under division (D)(3) of this section if the district demonstrates to the satisfaction of the superintendent that compliance with division (A) of this section that year will necessitate the reduction or elimination of a program currently offered by the district that is critical to the academic success of students of the district and that no reasonable alternatives exist for spending reductions in other areas of operation within the district that negate the necessity of the reduction or elimination of that program.

(E) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into after November 21, 1997.

(F) As used in this section, "student population" means the average, daily, full-time equivalent



number of students in kindergarten through twelfth grade receiving any educational services from the school district during the first full school week in October, excluding students enrolled in adult education classes, but including all of the following:

- (1) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (2) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;
- (3) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

The department of education shall determine a district's student population using data reported to it under section 3317.03 of the Revised Code for the applicable fiscal year.