# Ohio Revised Code

## Section 6101.50 Issuing anticipatory bonds and notes.

Effective: September 21, 2000
Legislation: House Bill 617 - 123rd General Assembly

(A) The board of directors of a conservancy district may, if in its judgment it seems best, issue bonds in an amount not to exceed ninety per cent of the total amount of the unpaid portion of an assessment, exclusive of interest, levied under this chapter, to mature at annual or semiannual intervals within thirty years. Whenever the board determines to issue bonds in anticipation of the collection of the installments of an assessment, it shall adopt a resolution, to be known as the resolution of necessity, declaring the necessity of the bond issue, its purpose, and its amount. Thereafter, prior to and in anticipation of the issuance and sale of those bonds, the board may borrow money and issue notes. Whenever the board determines to issue notes, it shall adopt a resolution, to be known as the note resolution. The note resolution shall do all of the following:

(1) State the principal amount or maximum principal amount of anticipatory notes to be issued and outstanding, not to exceed the amount of the bond issue;

(2) Provide for, or provide the method for, establishing or determining from time to time the rate or rates of interest or the maximum rate or rates of interest to be paid on the anticipatory notes;

(3) State the date or dates of the anticipatory notes;

(4) Establish provisions, if any, for redemption or prepayment of the anticipatory notes, in whole or in part, before maturity;

(5) Provide the maturity date of the anticipatory notes, which shall not be later than five years from the date of the first issue of the notes.

(B) All anticipatory notes issued for less than five years may be renewed from time to time until the expiration of five years from the date of original issue. After the expiration of five years from the date of original issue, if any annual installments of the assessments have been collected or are in process of collection, the board may renew or continue to renew its anticipatory notes from time to time until the board by a bonding resolution declares the necessity of issuing bonds.

Whenever notes have been issued in anticipation of the issuance of bonds, the proceeds of the bonds when issued and sold and of the assessment pursuant to which the bonds are issued shall be applied to the payment of the notes and interest on the notes until both are fully paid.

(C)(1) If the board determines not to issue anticipatory notes, or if anticipatory notes are issued and they are about to fall due, the board shall adopt a resolution, to be known as the bonding resolution. The bonding resolution shall do all of the following:

(a) Declare the necessity of the bonds presently to be issued, their purpose, and their amount, in accordance with the prior resolution of necessity;

(b) State or provide for the date of the bonds, and the dates and amounts or maximum amounts of maturities or principal payments on the bonds;

(c) State any provision for a mandatory sinking fund or mandatory sinking fund redemption or for redemption prior to maturity;

(d) Provide for the rate or rates of interest or maximum rate or rates of interest to be paid on the bonds or, if otherwise authorized, the method for establishing or determining from time to time the rate or rates of interest to be paid on the bonds;

(e) State any provision for a designated officer of the district to determine any of the specific terms required by this division to be stated in the bonding resolution, subject to any limitations stated in the bonding resolution.

(2) When anticipatory notes are not issued, the resolution of necessity may be incorporated in and made a part of the bonding resolution.

(D)(1) Anticipatory notes and bonds may be sold by competitive bid or at private sale in a manner determined or authorized by the board, but they shall not be sold for less than ninety-seven per cent of their principal amount, plus accrued interest. As used in this division, "bid" has the same meaning as in division (C) of section 133.30 of the Revised Code.

(2) All moneys from premiums and accrued interest shall be paid into the bond retirement fund.

(3) Bonds and anticipatory notes shall be signed by the president of the board and be attested by the signature of the secretary of the district. If any of the officers whose signatures, countersignatures, or certificates appear upon bonds, notes, or coupons issued pursuant to this chapter ceases to be that officer before the delivery of the bonds or notes to the purchaser, the signatures, countersignatures, or certificates shall nevertheless be valid and sufficient for all purposes, as if the officer had remained in office until the delivery of the bonds or notes.

Bonds shall show on their face the purpose for which they are issued, and shall be payable out of money derived from the bond retirement fund. All assessments the collection of which has been anticipated by the issuance of bonds or notes shall, when collected, be paid into the bond retirement fund for the purpose of paying the principal and interest of bonds and notes and for no other purpose. The expenses incurred in paying bonds and interest on bonds shall be paid out of the other funds in the hands of the treasurer of the conservancy district and collected for the purpose of meeting the expenses of administration.

(E) The board may issue anticipatory notes or bonds to fund or refund previously issued notes or bonds. These anticipatory notes or bonds shall be issued pursuant to a note resolution or bonding resolution as described in division (A) or (C) of this section.

Moneys derived from the proceeds of anticipatory notes and bonds issued under this division and any moneys derived from other sources and required for the funding or refunding of the previously issued notes or bonds shall be placed, under an escrow agreement or otherwise and to the extent required by the resolution, in an escrow fund. The escrow fund may be an account in the bond retirement fund if the previously issued notes or bonds are payable within ninety days of the issuance of the anticipatory notes or bonds under this division. The moneys in the escrow fund shall be pledged and used for the purpose of funding or refunding the previously issued notes or bonds.

(F) Pending their use under division (E) of this section, the moneys in the escrow fund referred to in that division shall be invested in direct obligations of, or obligations guaranteed as to payment by, the United States that mature, or are subject to redemption by and at the option of the holder, not later than the date or dates when the moneys in the escrow fund, together with interest or other investment income accrued on those moneys, are required for the payment of debt charges on the previously issued notes or bonds under division (E) of this section. Any moneys in the escrow fund that are not needed for the payment of debt charges on the previously issued notes or bonds shall be transferred to the bond retirement fund. For purposes of this division, "direct obligations of, or obligations guaranteed as to payment by, the United States" includes rights to receive payment or portions of payments of the principal of, or interest or other investment income on, those obligations and other obligations fully secured as to payment by those obligations and the interest or other investment income on those obligations.

(G) When the moneys, including the interest or other investment income on the moneys, in the escrow fund referred to in division (E) of this section are determined by an independent public accounting firm to be sufficient for the payment of the debt charges on the previously issued notes or bonds under that division, the following conditions shall apply:

(1) The previously issued notes or bonds shall no longer be considered outstanding.

(2) The previously issued notes or bonds shall no longer be considered for purposes of determining any direct or indirect limitation on the indebtedness or net indebtedness of the district.

(3) The levy of special assessments or other charges for the payment of the debt charges on the previously issued notes or bonds under this chapter, Chapter 5705. of the Revised Code, or other provisions of the Revised Code is not required.

(H) The board in making the annual assessment levy shall take into account the maturing bonds and interest on all bonds, and shall make ample provision in advance for the payment of those bonds and that interest.

In case the proceeds of the original assessments made under section 6101.48 of the Revised Code are not sufficient to pay the principal and interest of all bonds issued, the board shall make additional levies as necessary for this purpose, and under no circumstances shall any assessment levies be made that will in any manner or to any extent impair the security of the bonds or the fund available for the payment of the principal and interest of the bonds.