

As Passed by the House

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 435

Representative McClain

Cosponsors: Representatives Blessing, Ruhl, Grossman, Hambley, Reineke, Sheehy, Smith, K., Anielski, Arndt, Boose, Burkley, Conditt, Derickson, Dovilla, Green, Perales, Rogers, Scherer, Slaby, Thompson

A BILL

To enact sections 158.01, 158.02, 158.03, 158.04, 1
158.05, 158.06, 158.07, 158.08, 158.09, 158.10, 2
and 158.11 of the Revised Code to authorize the 3
Treasurer of State to issue revenue obligations 4
of the state for the purpose of making loans to 5
qualifying public entities for their acquisition 6
of permanent improvements through the Treasurer 7
of State's purchase of public obligations of 8
those qualifying entities. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 158.01, 158.02, 158.03, 158.04, 10
158.05, 158.06, 158.07, 158.08, 158.09, 158.10, and 158.11 of 11
the Revised Code be enacted to read as follows: 12

Sec. 158.01. As used in this chapter: 13

(A) "Acquisition," "credit enhancement facilities," 14
"financing costs," "interest," "permanent improvement," and 15
"public obligations" have the same meanings as in section 133.01 16

of the Revised Code. 17

(B) "Bond proceedings" means the orders, agreements, loan 18
agreements, trust agreements, indentures, certificates of award, 19
credit enhancement facilities, and amendments and supplements to 20
any of them, or any one or more or combination of them, 21
authorizing, awarding, or providing for the terms and conditions 22
applicable to, or providing for the security or liquidity of, an 23
issue of obligations, and the provisions contained in those 24
obligations. 25

(C) "Bond service charges" means principal, including any 26
mandatory sinking fund requirements for retirement of 27
obligations, and interest, and redemption premium, if any, 28
required to be paid on obligations. If not prohibited by the 29
applicable bond proceedings, bond service charges may include 30
costs relating to credit enhancement facilities that are related 31
to and represent, or are intended to provide a source of payment 32
of or limitation on, other bond service charges. 33

(D) "Interest rate hedge" has the same meaning as in 34
section 9.98 of the Revised Code. 35

(E) "Obligations" means bonds, notes, or other evidences 36
of obligation or indebtedness, including any appertaining 37
interest amounts due, issued under section 158.03 of the Revised 38
Code. 39

(F) "Qualifying entity" means a public issuer as that term 40
is defined in section 133.01 of the Revised Code. 41

(G) "Revenues" means all fees, charges, grants, subsidies, 42
income from the investment of moneys, and all other revenues or 43
receipts received by or on behalf of the state bond bank 44
available for the payment of bond service charges on the 45

obligations. 46

(H) "Required debt service reserve" means, as of any date 47
of computation, the amount or amounts required to be on deposit 48
in the reserve account as provided by order of the treasurer of 49
state. 50

(I) "Special funds" or "funds," unless the context 51
indicates otherwise, means the state bond bank trust fund, the 52
bond service account, the reserve account, the improvements 53
account, and any other funds and accounts created under bond 54
proceedings and stated to be special funds or accounts in those 55
proceedings, including moneys and investments, and earnings from 56
investments, credited and to be credited to a particular fund or 57
account. 58

(J) "State bond bank" means the state bond bank 59
established under section 158.02 of the Revised Code. 60

Sec. 158.02. (A) The state bond bank shall consist of the 61
state bond bank trust fund, including all funds, accounts, and 62
subaccounts therein, to be administered by the treasurer of 63
state and used for the purposes described in division (C) of 64
this section. 65

(B) There is hereby created the state bond bank trust 66
fund, which shall be in the custody of the treasurer of state 67
but shall be separate and apart from and not a part of the state 68
treasury. All moneys received by the state and required by the 69
applicable bond proceedings to be deposited, transferred, or 70
credited to the fund, and all other moneys transferred or 71
allocated to or received for the purposes of the fund, shall be 72
deposited with the treasurer of state and credited to such fund, 73
subject to applicable provisions of the bond proceedings, but 74

without necessity for any act of appropriation. Any portion of 75
the revenues that are, by the bond proceedings, directed to be 76
used to pay for administrative expenses of the treasurer of 77
state in connection therewith shall be deposited into the 78
treasurer of state's administrative fund created in section 79
113.20 of the Revised Code. 80

(C) There is hereby created within the state bond bank 81
trust fund, the improvements account. Net proceeds of 82
obligations issued pursuant to section 158.03 of the Revised 83
Code, unless otherwise provided in the bond proceedings, shall 84
be deposited into the improvements account and disbursed for the 85
purpose of making loans to qualifying entities for the 86
acquisition of permanent improvements and the payment of 87
financing costs. Such loans shall be made through the treasurer 88
of state's purchase of public obligations of such qualifying 89
entities without necessity for any act of appropriation. 90

(D) There is hereby created within the state bond bank 91
trust fund, the reserve account in which shall be deposited all 92
moneys appropriated by the state for the purpose of the account, 93
all proceeds of obligations required to be deposited therein by 94
terms of the bond proceedings or any order of the treasurer of 95
state with respect to the proceeds of obligations, and any other 96
moneys or funds that the treasurer of state determines to 97
deposit therein. 98

(1) Moneys in the reserve account shall be held and 99
applied solely to the payment of the interest on and principal 100
of presently outstanding obligations payable from the state bond 101
bank trust fund and any obligations issued to refund such 102
obligations, all as they become due and payable and for the 103
retirement of obligations. 104

(2) Moneys may not be withdrawn from the reserve account 105
in the event that such withdrawal reduces the amount in the 106
reserve account to an amount less than the required debt service 107
reserve, except for the (a) payment of interest then due and 108
payable on obligations and the principal of obligations then 109
maturing and payable and (b) the retirement of obligations in 110
accordance with the terms of the bond proceedings and for which 111
payments of other moneys of the state bond bank trust fund are 112
not then available. 113

(E) There is hereby created within the state bond bank 114
trust fund, the bond service account. The bond service account 115
is hereby pledged to the payment of bond service charges on the 116
obligations issued pursuant to section 158.03 of the Revised 117
Code to the extent provided in the applicable bond proceedings, 118
and payment thereof from such account shall be made or provided 119
for by the treasurer of state in accordance with such bond 120
proceedings without necessity for any act of appropriation. 121

(F) To the extent permitted by law, the treasurer of state 122
may adopt reasonable rules and enter into agreements to secure 123
payment of bond service charges on obligations, including but 124
not limited to either of the following: 125

(1) The withholding of any amounts payable by the state 126
and allocated to a qualified entity and the payment of those 127
amounts as described in the bond proceedings; 128

(2) The directing of a department, agency, or 129
instrumentality of the state, or a political subdivision 130
thereof, that is a custodian of money payable to a qualified 131
entity to withhold such money and pay it over as described in 132
the bond proceedings. 133

Sec. 158.03. (A) The treasurer of state is authorized to 134
issue and sell, in accordance with this chapter, revenue 135
obligations of the state for the purpose of paying costs of 136
acquisition of public obligations of qualifying entities and 137
financing costs in connection with the issuance of such revenue 138
obligations. 139

(B) Each issue of obligations shall be authorized by an 140
order of the treasurer of state. The bond proceedings shall 141
provide for or authorize the manner for determining all of the 142
following: 143

(1) The principal amount or maximum principal amount of 144
obligations of an issue; 145

(2) The principal maturity or maturities, not to exceed 146
thirty-five years; 147

(3) The interest rate or rates, or, in the case of 148
variable rate obligations, the method for determination of such 149
interest rate or rates and any maximum interest rate or rates; 150

(4) The date of and the dates of payment of interest on 151
the obligations; 152

(5) The denominations of the obligations; 153

(6) The method of sale of the obligations; 154

(7) The authority to retain the necessary professionals to 155
complete a revenue obligation sale or issuance; 156

(8) The place or places of payment of bond service 157
charges, which may be within or outside the state. 158

(C) Each issue of obligations shall be payable solely from 159
the revenues and special funds pledged to that purpose pursuant 160

to the bond proceedings, and the holders of the obligations 161
shall have no right to the levy or imposition of any tax or 162
excise by the state or any political subdivision of the state 163
for the payment of bond service charges on the obligations. A 164
statement to that effect shall appear on the face of each 165
obligation. The bond service charges and all other payments 166
required to be made by the bond proceedings shall be payable 167
solely from the revenues received by the state bond bank trust 168
fund and pledged thereto as provided in such bond proceedings. 169
The revenues pledged and thereafter received by the state bond 170
bank trust fund shall immediately be subject to the lien of such 171
pledge without any physical delivery thereof or further act, and 172
the lien of any such pledge is valid and binding against all 173
parties having claims of any kind against the revenues pledged 174
thereto, irrespective of whether those parties have notice 175
thereof, and creates a perfected security interest for all 176
purposes of Chapter 1309. of the Revised Code, all without the 177
necessity for separation or delivery of funds or for the filing 178
or recording of any bond proceedings, trust agreement, 179
indenture, or other agreement by which such pledge is created or 180
any certificate, statement, or other document with respect 181
thereto; and the pledge of such revenue is effective and the 182
money therefrom and thereof may be applied to the purposes for 183
which pledged. Every pledge, and every covenant and agreement 184
made with respect to the pledge, made in the bond proceedings 185
may therein be extended to the benefit of the owners and holders 186
of obligations and to any trustee therefor, for the further 187
securing of the payment of the bond service charges and any 188
financing costs related to credit enhancement facilities, and 189
all or any rights under any agreement made under this section 190
may be assigned for such purpose. 191

(D) Financing costs are payable, as may be provided in the 192
bond proceedings, from the proceeds of the obligations, from 193
special funds, or from other moneys available for the purpose. 194

(E) The treasurer of state shall create groups for the 195
pooled issuances authorized by this chapter, such that the 196
public obligations of qualifying entities that are purchased 197
with the proceeds of a particular revenue obligation issuance of 198
the state bond bank are of a similar quality. Determinations of 199
the quality of a public obligation shall be made by the 200
treasurer of state. Notwithstanding the treasurer of state's 201
determination, an obligation of a qualified entity may be 202
included in a group of a different quality with the consent of 203
all of the qualifying entities participating in that group. 204

(F) Upon the sale and delivery by a qualified entity of a 205
public obligation to the state bond bank, the qualified entity 206
shall be considered to have agreed that, upon its failure to pay 207
interest or principal, when payable, on the public obligation 208
owned or held by or arising from an agreement with the state 209
bond bank, all defenses to nonpayment are waived. 210

Sec. 158.04. The bond proceedings may contain additional 211
provisions customary or appropriate to the financing or to the 212
obligations or to particular obligations, including but not 213
limited to provisions for any of the following: 214

(A) The redemption of obligations prior to maturity upon 215
the occurrence of certain conditions, and at particular price or 216
prices and under particular terms and conditions; 217

(B) The form of and other terms of the obligations; 218

(C) The establishment, deposit, investment, and 219
application of special funds, and the safeguarding of moneys on 220

hand or on deposit. Any financial institution that acts as a 221
depository of any moneys in special funds or other funds under 222
the bond proceedings may furnish indemnifying bonds or pledge 223
securities as required by the treasurer of state. 224

(D) Any or every provision of the bond proceedings being 225
binding upon the treasurer of state and upon such qualifying 226
entity, officer, board, commission, authority, agency, 227
department, institution, district, or other person or body as 228
may from time to time be authorized to take actions as may be 229
necessary to perform all or any part of the duty required by the 230
provision; 231

(E) The maintenance of each pledge or instrument 232
comprising part of the bond proceedings until the obligations 233
have been fully paid or payment provided for or other stated 234
conditions; 235

(F) In the event of default in any payments required to be 236
made by the bond proceedings, or by any other agreement of the 237
treasurer of state made as part of a contract under which the 238
obligations were issued or secured, including a credit 239
enhancement facility, the enforcement of those payments by 240
mandamus, a suit in equity, an action at law, or any combination 241
of those remedial actions; 242

(G) The rights and remedies of the holders or owners of 243
obligations or of book-entry interests in them, and of third 244
parties under any credit enhancement facility, and provisions 245
for protecting and enforcing those rights and remedies, 246
including limitations on the rights of individual holders or 247
owners; 248

(H) The replacement of mutilated, destroyed, lost, or 249

<u>stolen obligations;</u>	250
<u>(I) The funding, refunding, or advance refunding, or other</u>	251
<u>provision for payment, of obligations that will then no longer</u>	252
<u>be outstanding for purposes of this chapter or of the applicable</u>	253
<u>bond proceedings;</u>	254
<u>(J) Amendment of the bond proceedings;</u>	255
<u>(K) The form of any trust agreement, indenture, escrow</u>	256
<u>agreement, paying agency agreement, registrar agreement to</u>	257
<u>provide for the security, payment, terms, and conditions of</u>	258
<u>obligations, and the proper administration of the pledges and</u>	259
<u>security interests granted for the benefit of holders of the</u>	260
<u>bonds;</u>	261
<u>(L) The form of any credit enhancement facility;</u>	262
<u>(M) Any other or additional agreements with the owners of</u>	263
<u>obligations, and such other provisions as the treasurer of state</u>	264
<u>determines, including limitations, conditions, or</u>	265
<u>qualifications, relating to any of the foregoing.</u>	266
<u>Sec. 158.05. (A) The obligations requiring execution by or</u>	267
<u>for the treasurer of state shall be signed as provided in the</u>	268
<u>bond proceedings. Any obligations may be signed by the</u>	269
<u>individual who on the date of execution is the authorized signer</u>	270
<u>although on the date of these obligations that individual is not</u>	271
<u>an authorized signer. In case the individual whose signature or</u>	272
<u>facsimile signature appears on any obligation ceases to be an</u>	273
<u>authorized signer before delivery of the obligation, that</u>	274
<u>signature or facsimile is nevertheless valid and sufficient for</u>	275
<u>all purposes as if that individual had remained the authorized</u>	276
<u>signer until delivery.</u>	277
<u>(B) Obligations may be sold at public sale or at private</u>	278

sale, in such manner, and at such price at, above, or below par, 279
all as determined by and provided by the treasurer of state in 280
the bond proceedings. 281

Sec. 158.06. Obligations are investment securities under 282
Chapter 1308. of the Revised Code. Obligations may be issued in 283
bearer or in registered form, registrable as to principal alone 284
or as to both principal and interest, or both, or in 285
certificated or uncertificated form, as the treasurer of state 286
determines. Provision may be made for the exchange, conversion, 287
or transfer of obligations and for reasonable charges for 288
registration, exchange, conversion, and transfer. Pending 289
preparation of final obligations, the treasurer of state may 290
provide for the issuance of interim instruments to be exchanged 291
for the final obligations. 292

Sec. 158.07. Except to the extent that rights are 293
restricted by the bond proceedings, any owner of obligations or 294
provider of a credit enhancement facility may, by any suitable 295
form of legal proceedings, protect and enforce any rights 296
relating to obligations or that facility under the laws of this 297
state or granted by the bond proceedings. Each duty of the 298
treasurer of state undertaken pursuant to the bond proceedings 299
is hereby established as a duty of the entity or individual 300
having authority to perform that duty, specifically enjoined by 301
law and resulting from an office, trust, or station within the 302
meaning of section 2731.01 of the Revised Code. The individuals 303
who are from time to time the treasurer of state, or the staff 304
or employees of the treasurer of state, are not liable in their 305
personal capacities on any obligations or otherwise under the 306
bond proceedings. 307

Sec. 158.08. The treasurer of state may, in addition to 308

the authority referred to in division (B) of section 158.03 of 309
the Revised Code, authorize and provide for the issuance of any 310
of the following: 311

(A) To further the efficient financing of costs of local 312
permanent improvements, obligations in the form of bond 313
anticipation notes, and may provide for the renewal of those 314
notes from time to time by the issuance of new notes. The 315
holders of notes have the right to have bond service charges on 316
those obligations paid solely from the moneys and special funds 317
that are or may be pledged to that payment, including the 318
proceeds of obligations or renewal notes or both, as the 319
treasurer of state provides in the bond proceedings authorizing 320
the notes. Notes may be additionally secured by covenants of the 321
treasurer of state to the effect that the treasurer of state 322
will do all things necessary for the issuance of obligations or 323
renewal notes in such principal amount and upon such terms as 324
may be necessary to provide moneys to pay when due the debt 325
service on the notes, and apply their proceeds to the extent 326
necessary, to make full and timely payment of bond service 327
charges on the notes as provided in the applicable bond 328
proceedings. In the bond proceedings authorizing the issuance of 329
bond anticipation notes, the treasurer of state shall set forth 330
for the obligations anticipated an estimated schedule of annual 331
principal payments the latest of which shall be not later than 332
provided in division (B) of section 158.03 of the Revised Code. 333
All provisions and conditions relating to the issuance of 334
obligations under this chapter, except where expressly provided 335
otherwise, apply to the issuance of note and renewal notes. 336

(B) Obligations for the refunding, including funding and 337
retirement, and advance refunding with or without payment or 338
redemption prior to maturity, of any obligations previously 339

issued. Refunding obligations may be issued in amounts 340
sufficient to pay or to provide for repayment of the principal 341
amount, including principal amounts maturing prior to the 342
redemption of the remaining prior obligations, any redemption 343
premium, financing costs and interest accrued or to accrue to 344
the maturity or redemption date or dates, payable on the prior 345
obligations, and related financing costs and any expenses 346
incurred or to be incurred in connection with that issuance and 347
refunding. Subject to the applicable bond proceedings, the 348
portion of the proceeds of the sale of refunding obligations 349
issued under this section to be applied to bond service charges 350
on the prior obligations shall be credited to an appropriate 351
separate subaccount in the bond service account and held in 352
trust for the purpose by the treasurer of state or by a 353
corporate trustee. Obligations authorized under this division 354
shall be considered to be issued for those purposes for which 355
the prior obligations were issued. 356

Sec. 158.09. Obligations are lawful investments for banks, 357
savings and loan associations, credit union share guaranty 358
corporations, trust companies, trustees, fiduciaries, insurance 359
companies, including domestic for life and domestic not for 360
life, trustees or other officers having charge of sinking and 361
bond retirement or other special funds of the state and 362
political subdivisions and taxing districts of this state, the 363
sinking fund, the administrator of workers' compensation subject 364
to the approval of the workers' compensation board, the state 365
teachers retirement system, the public employees retirement 366
system, the school employees retirement system, and the Ohio 367
police and fire pension fund, notwithstanding any other 368
provisions of the Revised Code or rules adopted pursuant to 369
those provisions by any state agency with respect to investments 370

by them, and are also acceptable as security for the repayment 371
of the deposit of public moneys. The exemptions from taxation in 372
Ohio as provided for in particular sections of the Constitution 373
of the State of Ohio and section 5709.76 of the Revised Code 374
apply to the obligations. 375

Sec. 158.10. (A) Unless otherwise provided or provided for 376
in any applicable bond proceedings, moneys to the credit of or 377
in a special fund shall be disbursed on the direction of the 378
treasurer of state. No such order is required for the payment, 379
from the bond service account or other special fund, when due, 380
of bond service charges. Unless otherwise provided in the 381
applicable bond proceedings, payments received with respect to 382
interest rate hedges entered into as credit enhancement 383
facilities under this chapter shall be deposited to the credit 384
of the bond service account for the obligations to which those 385
credit enhancement facilities relate. 386

(B) Each bond service account is a trust fund and is 387
hereby pledged to the payment of bond service charges on the 388
applicable obligations. Payment of bond service charges shall be 389
made or provided for by the treasurer of state in accordance 390
with the bond proceedings without necessity for any act of 391
appropriation. The bond proceedings may provide for the 392
establishment of separate subaccounts in the bond service 393
account and for the application of those subaccounts only to 394
bond service charges on specific obligations, and for other 395
subaccounts in the bond service account within the general 396
purposes of that account. 397

(C) (1) Unless otherwise provided in any applicable bond 398
proceedings, moneys to the credit of special funds may be 399
invested only in one or more of the following: 400

(a) Notes, bonds, or other direct obligations of the 401
United States or of any agency or instrumentality of the United 402
States, or in no-front-end-load money market mutual funds 403
consisting exclusively of those obligations, or in repurchase 404
agreements, including those issued by any fiduciary, secured by 405
those obligations, or in collective investment funds consisting 406
exclusively of those obligations; 407

(b) Obligations of this state or any political subdivision 408
of this state; 409

(c) Certificates of deposit of any national bank located 410
in this state and any bank, as defined in section 1101.01 of the 411
Revised Code, subject to inspection by the superintendent of 412
financial institutions; 413

(d) The treasurer of state's pooled investment program 414
under section 135.45 of the Revised Code. 415

(2) The income from investments referred to in division 416
(C) (1) of this section shall be credited to special funds or 417
otherwise as the treasurer of state determines in the bond 418
proceedings. Those investments may be sold or exchanged at times 419
as the treasurer of state determines, provides for, or 420
authorizes. 421

Sec. 158.11. The provisions of sections 9.98 to 9.983 of 422
the Revised Code shall apply to all obligations issued under 423
this chapter. 424