

As Introduced

131st General Assembly

Regular Session

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H. B. No. 435

Representative McClain

**Cosponsors: Representatives Blessing, Ruhl, Grossman, Hambley, Reineke,
Sheehy, Smith, K.**

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) The treasurer of state may adopt reasonable rules not 122
inconsistent with this chapter to secure payment of bond service 123
charges on obligations, including but not limited to the 124
withholding of any amounts payable by the state and allocated to 125
a qualified entity. 126

Sec. 158.03. (A) The treasurer of state is authorized to 127
issue and sell, in accordance with this chapter, revenue 128
obligations of the state for the purpose of paying costs of 129
acquisition of public obligations of qualifying entities and 130
financing costs in connection with the issuance of such revenue 131
obligations. 132

(B) Each issue of obligations shall be authorized by an 133
order of the treasurer of state. The bond proceedings shall 134
provide for or authorize the manner for determining the 135
principal amount or maximum principal amount of obligations of 136

an issue, the principal maturity or maturities, not to exceed 137
thirty-five years, the interest rate or rates, or, in the case 138
of variable rate obligations, the method for determination of 139
such interest rate or rates and any maximum interest rate or 140
rates, the date of and the dates of payment of interest on the 141
obligations, their denominations, and the place or places of 142
payment of bond service charges, which may be within or outside 143
the state. 144

(C) Each issue of obligations shall be payable solely from 145
the revenues and special funds pledged to that purpose pursuant 146
to the bond proceedings, and the holders of the obligations 147
shall have no right to the levy or imposition of any tax or 148
excise by the state or any political subdivision of the state 149
for the payment of bond service charges on the obligations. A 150
statement to that effect shall appear on the face of each 151
obligation. The bond service charges and all other payments 152
required to be made by the bond proceedings shall be payable 153
solely from the revenues received by the state bond bank trust 154
fund and pledged thereto as provided in such bond proceedings. 155
The revenues pledged and thereafter received by the state bond 156
bank trust fund shall immediately be subject to the lien of such 157
pledge without any physical delivery thereof or further act, and 158
the lien of any such pledge is valid and binding against all 159
parties having claims of any kind against the revenues pledged 160
thereto, irrespective of whether those parties have notice 161
thereof, and creates a perfected security interest for all 162
purposes of Chapter 1309. of the Revised Code, all without the 163
necessity for separation or delivery of funds or for the filing 164
or recording of any bond proceedings, trust agreement, 165
indenture, or other agreement by which such pledge is created or 166
any certificate, statement, or other document with respect 167

thereto; and the pledge of such revenue is effective and the 168
money therefrom and thereof may be applied to the purposes for 169
which pledged. Every pledge, and every covenant and agreement 170
made with respect to the pledge, made in the bond proceedings 171
may therein be extended to the benefit of the owners and holders 172
of obligations and to any trustee therefor, for the further 173
securing of the payment of the bond service charges and any 174
financing costs related to credit enhancement facilities, and 175
all or any rights under any agreement made under this section 176
may be assigned for such purpose. 177

(D) Financing costs are payable, as may be provided in the 178
bond proceedings, from the proceeds of the obligations, from 179
special funds, or from other moneys available for the purpose. 180

Sec. 158.04. The bond proceedings may contain additional 181
provisions customary or appropriate to the financing or to the 182
obligations or to particular obligations, including but not 183
limited to provisions for any of the following: 184

(A) The redemption of obligations prior to maturity upon 185
the occurrence of certain conditions, and at particular price or 186
prices and under particular terms and conditions; 187

(B) The form of and other terms of the obligations; 188

(C) The establishment, deposit, investment, and 189
application of special funds, and the safeguarding of moneys on 190
hand or on deposit. Any financial institution that acts as a 191
depository of any moneys in special funds or other funds under 192
the bond proceedings may furnish indemnifying bonds or pledge 193
securities as required by the treasurer of state. 194

(D) Any or every provision of the bond proceedings being 195
binding upon the treasurer of state and upon such qualifying 196

entity, officer, board, commission, authority, agency, 197
department, institution, district, or other person or body as 198
may from time to time be authorized to take actions as may be 199
necessary to perform all or any part of the duty required by the 200
provision; 201

(E) The maintenance of each pledge or instrument 202
comprising part of the bond proceedings until the obligations 203
have been fully paid or payment provided for or other stated 204
conditions; 205

(F) In the event of default in any payments required to be 206
made by the bond proceedings, or by any other agreement of the 207
treasurer of state made as part of a contract under which the 208
obligations were issued or secured, including a credit 209
enhancement facility, the enforcement of those payments by 210
mandamus, a suit in equity, an action at law, or any combination 211
of those remedial actions; 212

(G) The rights and remedies of the holders or owners of 213
obligations or of book-entry interests in them, and of third 214
parties under any credit enhancement facility, and provisions 215
for protecting and enforcing those rights and remedies, 216
including limitations on the rights of individual holders or 217
owners; 218

(H) The replacement of mutilated, destroyed, lost, or 219
stolen obligations; 220

(I) The funding, refunding, or advance refunding, or other 221
provision for payment, of obligations that will then no longer 222
be outstanding for purposes of this chapter or of the applicable 223
bond proceedings; 224

(J) Amendment of the bond proceedings; 225

(K) The form of any trust agreement, indenture, escrow agreement, paying agency agreement, registrar agreement to provide for the security, payment, terms, and conditions of obligations, and the proper administration of the pledges and security interests granted for the benefit of holders of the bonds; 226
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(L) The form of any credit enhancement facility; 232

(M) Any other or additional agreements with the owners of obligations, and such other provisions as the treasurer of state determines, including limitations, conditions, or qualifications, relating to any of the foregoing. 233
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Sec. 158.05. (A) The obligations requiring execution by or for the treasurer of state shall be signed as provided in the bond proceedings. Any obligations may be signed by the individual who on the date of execution is the authorized signer although on the date of these obligations that individual is not an authorized signer. In case the individual whose signature or facsimile signature appears on any obligation ceases to be an authorized signer before delivery of the obligation, that signature or facsimile is nevertheless valid and sufficient for all purposes as if that individual had remained the authorized signer until delivery. 237
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(B) Obligations may be sold at public sale or at private sale, in such manner, and at such price at, above, or below par, all as determined by and provided by the treasurer of state in the bond proceedings. 248
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Sec. 158.06. Obligations are investment securities under Chapter 1308. of the Revised Code. Obligations may be issued in bearer or in registered form, registrable as to principal alone 252
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or as to both principal and interest, or both, or in 255
certificated or uncertificated form, as the treasurer of state 256
determines. Provision may be made for the exchange, conversion, 257
or transfer of obligations and for reasonable charges for 258
registration, exchange, conversion, and transfer. Pending 259
preparation of final obligations, the treasurer of state may 260
provide for the issuance of interim instruments to be exchanged 261
for the final obligations. 262

Sec. 158.07. Except to the extent that rights are 263
restricted by the bond proceedings, any owner of obligations or 264
provider of a credit enhancement facility may, by any suitable 265
form of legal proceedings, protect and enforce any rights 266
relating to obligations or that facility under the laws of this 267
state or granted by the bond proceedings. Each duty of the 268
treasurer of state undertaken pursuant to the bond proceedings 269
is hereby established as a duty of the entity or individual 270
having authority to perform that duty, specifically enjoined by 271
law and resulting from an office, trust, or station within the 272
meaning of section 2731.01 of the Revised Code. The individuals 273
who are from time to time the treasurer of state, or the staff 274
or employees of the treasurer of state, are not liable in their 275
personal capacities on any obligations or otherwise under the 276
bond proceedings. 277

Sec. 158.08. The treasurer of state may, in addition to 278
the authority referred to in division (B) of section 158.03 of 279
the Revised Code, authorize and provide for the issuance of any 280
of the following: 281

(A) To further the efficient financing of costs of local 282
permanent improvements, obligations in the form of bond 283
anticipation notes, and may provide for the renewal of those 284

notes from time to time by the issuance of new notes. The 285
holders of notes have the right to have bond service charges on 286
those obligations paid solely from the moneys and special funds 287
that are or may be pledged to that payment, including the 288
proceeds of obligations or renewal notes or both, as the 289
treasurer of state provides in the bond proceedings authorizing 290
the notes. Notes may be additionally secured by covenants of the 291
treasurer of state to the effect that the treasurer of state 292
will do all things necessary for the issuance of obligations or 293
renewal notes in such principal amount and upon such terms as 294
may be necessary to provide moneys to pay when due the debt 295
service on the notes, and apply their proceeds to the extent 296
necessary, to make full and timely payment of bond service 297
charges on the notes as provided in the applicable bond 298
proceedings. In the bond proceedings authorizing the issuance of 299
bond anticipation notes, the treasurer of state shall set forth 300
for the obligations anticipated an estimated schedule of annual 301
principal payments the latest of which shall be not later than 302
provided in division (B) of section 158.03 of the Revised Code. 303
All provisions and conditions relating to the issuance of 304
obligations under this chapter, except where expressly provided 305
otherwise, apply to the issuance of note and renewal notes. 306

(B) Obligations for the refunding, including funding and 307
retirement, and advance refunding with or without payment or 308
redemption prior to maturity, of any obligations previously 309
issued. Refunding obligations may be issued in amounts 310
sufficient to pay or to provide for repayment of the principal 311
amount, including principal amounts maturing prior to the 312
redemption of the remaining prior obligations, any redemption 313
premium, financing costs and interest accrued or to accrue to 314
the maturity or redemption date or dates, payable on the prior 315

obligations, and related financing costs and any expenses 316
incurred or to be incurred in connection with that issuance and 317
refunding. Subject to the applicable bond proceedings, the 318
portion of the proceeds of the sale of refunding obligations 319
issued under this section to be applied to bond service charges 320
on the prior obligations shall be credited to an appropriate 321
separate subaccount in the bond service account and held in 322
trust for the purpose by the treasurer of state or by a 323
corporate trustee. Obligations authorized under this division 324
shall be considered to be issued for those purposes for which 325
the prior obligations were issued. 326

Sec. 158.09. Obligations are lawful investments for banks, 327
savings and loan associations, credit union share guaranty 328
corporations, trust companies, trustees, fiduciaries, insurance 329
companies, including domestic for life and domestic not for 330
life, trustees or other officers having charge of sinking and 331
bond retirement or other special funds of the state and 332
political subdivisions and taxing districts of this state, the 333
sinking fund, the administrator of workers' compensation subject 334
to the approval of the workers' compensation board, the state 335
teachers retirement system, the public employees retirement 336
system, the school employees retirement system, and the Ohio 337
police and fire pension fund, notwithstanding any other 338
provisions of the Revised Code or rules adopted pursuant to 339
those provisions by any state agency with respect to investments 340
by them, and are also acceptable as security for the repayment 341
of the deposit of public moneys. The exemptions from taxation in 342
Ohio as provided for in particular sections of the Constitution 343
of the State of Ohio and section 5709.76 of the Revised Code 344
apply to the obligations. 345

Sec. 158.10. (A) Unless otherwise provided or provided for 346

in any applicable bond proceedings, moneys to the credit of or 347
in a special fund shall be disbursed on the direction of the 348
treasurer of state. No such order is required for the payment, 349
from the bond service account or other special fund, when due, 350
of bond service charges. Unless otherwise provided in the 351
applicable bond proceedings, payments received with respect to 352
interest rate hedges entered into as credit enhancement 353
facilities under this chapter shall be deposited to the credit 354
of the bond service account for the obligations to which those 355
credit enhancement facilities relate. 356

(B) Each bond service account is a trust fund and is 357
hereby pledged to the payment of bond service charges on the 358
applicable obligations. Payment of bond service charges shall be 359
made or provided for by the treasurer of state in accordance 360
with the bond proceedings without necessity for any act of 361
appropriation. The bond proceedings may provide for the 362
establishment of separate subaccounts in the bond service 363
account and for the application of those subaccounts only to 364
bond service charges on specific obligations, and for other 365
subaccounts in the bond service account within the general 366
purposes of that account. 367

(C) (1) Unless otherwise provided in any applicable bond 368
proceedings, moneys to the credit of special funds may be 369
invested only in one or more of the following: 370

(a) Notes, bonds, or other direct obligations of the 371
United States or of any agency or instrumentality of the United 372
States, or in no-front-end-load money market mutual funds 373
consisting exclusively of those obligations, or in repurchase 374
agreements, including those issued by any fiduciary, secured by 375
those obligations, or in collective investment funds consisting 376

<u>exclusively of those obligations;</u>	377
<u>(b) Obligations of this state or any political subdivision of this state;</u>	378
<u>(c) Certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions;</u>	380
<u>(d) The treasurer of state's pooled investment program under section 135.45 of the Revised Code.</u>	384
<u>(2) The income from investments referred to in division (C) (1) of this section shall be credited to special funds or otherwise as the treasurer of state determines in the bond proceedings. Those investments may be sold or exchanged at times as the treasurer of state determines, provides for, or authorizes.</u>	386
<u>Sec. 158.11. The provisions of sections 9.98 to 9.983 of the Revised Code shall apply to all obligations issued under this chapter.</u>	392