



Jim Kelly

Final Analysis

Legislative Service Commission

Sub. H.B. 220

123rd General Assembly
(As Passed by the General Assembly)

Reps. Householder, Willamowski, Bender, Mottley, Cates, Jacobson, Corbin, Mead, Williams, Hollister, Krebs, Terwilleger, Evans, Padgett, Amstutz, Jolivette, Distel, Schuler, Verich, Patton, Buchy, O'Brien, Haines, Winkler, Hartnett, Austria, Peterson, Brading, Buehrer

Sens. Gardner, Kearns, Mumper, Prentiss, Drake, Spada, Herington

Effective date: November 2, 1999

ACT SUMMARY

Provisions affecting school districts only

- Changes the terms under which school districts may acquire buildings and land with lease-purchase agreements.
- Permits joint vocational school districts to acquire buildings and land using lease-purchase agreements.
- Permits, rather than requires, school boards to levy a property tax to pay for land acquired through financing methods that require periodic installment payments.
- Shortens the time period that school districts must advertise for bids for capital improvement contracts.
- Permits school district boards to create petty cash accounts for use by designated school officials.
- Expressly designates school district treasurers as the chief fiscal officers of school districts.
- Exempts from school district debt limits any permanent improvement debt financed with compensation received by the school district from a

municipal corporation as reimbursement for property tax exemptions for public athletic facilities.

Deposit requirements for school districts and other political subdivisions

- Permits public offices to adopt policies allowing public money in amounts less than \$1,000 to be deposited at less frequent intervals than previously required.
- Requires political subdivisions to designate banks and other depositories of public funds every five years, rather than every two years, and to make interim changes if a depository is found to be insolvent or operating unsafely.

CONTENT AND OPERATION

Terms of school district lease-purchase agreements

(sec. 3313.375)

Pre-existing law

City, local, and exempted village school districts are authorized to enter into lease-purchase agreements for the purpose of constructing and eventually owning school district buildings. An agreement must provide for the building to be leased for not more than 30 years, after which ownership is transferred to the school district. The agreement may require the school district to make a final lump sum payment as a condition for the district to become owner of the property. It may allow the school district to grant leases, easements, or licenses for the property during the period of the agreement.

Changes made by the act

Lease-purchase agreements are not continuing contracts. Under the act, a lease-purchase agreement is no longer considered to be a continuing contract. Instead, the agreement must consist of a series of not more than 30, one-year renewable lease terms. Thus, for the purpose of the statute requiring that sufficient funds be on hand before a school district may enter into a contract, the school district now apparently must have enough funds on hand each year for the payments due that year in order to renew the lease (R.C. 5705.412, not in the act).

A lump sum payment is still permitted as part of a lease-purchase agreement, but it does not necessarily have to be paid at the end of the lease, as required by prior law.

Any payments under the agreement can be deemed to be, and paid as, current expenses (presumably clarifying that revenues from operating levies may be used to pay for the lease-purchase).

Purpose of lease-purchase agreements. The act permits school districts to enter into lease-purchase agreements not only for the construction of buildings, but for enlarging, improving, furnishing, and equipping buildings.

Agreement need not include underlying land. The act eliminates a requirement that a lease-purchase agreement for a building include the land on which it is situated. So presumably an agreement now can be tailored to eventually transfer ownership of the building, but not the underlying land, to the school district. The act does not prohibit a lease-purchase agreement from covering underlying land, however.

Transfer of ownership conditional on district's fulfillment of obligations. The act specifies that under a lease-purchase agreement, the transfer of the act building or land to a school district at the end of the agreement is conditional upon the school district satisfying all of its obligations under the agreement.

Right-to-cancel clause not required. The act eliminates a requirement that lease-purchase agreements grant school districts the right to cancel the agreement without penalty. But it does not expressly prohibit these kinds of provisions. Presumably, eliminating this restriction now allows school districts to negotiate the terms of any right-to-cancel clause that might be included in an agreement. Under the prior law that the act eliminates, the right-to-cancel provision had to obligate the school district to give at least one year's notice before canceling.

JVSDs may use lease-purchase agreements. The act authorizes joint vocational school districts to enter into lease-purchase agreements under the same terms as city, local, and exempted village school districts may enter into such agreements.

Property tax optional for acquiring land through installment purchase

(sec. 3313.37)

Pre-existing law allows the boards of city, local, and exempted village school districts to purchase land through various kinds of transactions, including

cash, installment payments, lease-purchase, and lease with an option to purchase. If the method of purchase involves making payments over a period of time, the period cannot be longer than five years.

The act eliminates the *requirement* that, when paying for land over a period of time, school boards levy a voter-approved property tax to make the future payments, but makes such a levy *permissive*. Apparently, school boards now may use another source of revenue to cover the payments, or use revenue from an existing tax levy.

School district petty cash accounts

(sec. 3313.291)

The act permits school district boards to create petty cash accounts to allow designated school officials to make purchases "within" the school district. Money can be drawn from the account by check or debit card. The account must be created by a resolution, which must specify the maximum amount that may be placed in the account, the officials authorized to use the account, and procedures and requirements for replenishing the account. Instead of naming the officials who can use the account, the resolution may require the treasurer to designate them.

Advertisement of bids for school district facilities

(sec. 3313.46(A)(2))

Competitive bidding generally is required for contracts for school district capital improvements that cost \$25,000 or more. School boards previously were required to advertise for bids in a newspaper once a week for four consecutive weeks not later than 15 days before the board receives bids.

Under the act, bids must be advertised once a week for at least two consecutive weeks before the board receives bids. It also eliminates the minimum 15-day waiting period between the last advertisement and the date bids can be received.

School district treasurers as chief fiscal officers

(sec. 3313.31)

The act adds to the law an express statement that the school district treasurer is the chief fiscal officer of a school district, and is "responsible for the financial affairs of the district, subject to the direction of the district board of education." It also states that a school district treasurer cannot be required to

verify the accuracy of nonfinancial information or data of the school district, unless otherwise provided by law.

School district debt limit exception

(sec. 133.06(H))

Pre-existing law generally prohibits school districts from incurring debt in excess of 0.1% of the district's taxable property valuation, unless voters approve greater amounts of debt. The total of voted and unvoted debt generally may not exceed 9% of the district's taxable valuation.

Several kinds of debt are exempted in determining the amount of a district's allowable debt, including permanent improvement debt repaid with payments made to the school district as compensation for property tax exemptions granted by another political subdivision. Specifically, debt is exempted from the debt limit only if the (1) school district treasurer estimates that the compensation is sufficient to repay the debt and certifies that the school district can fund the operation of the permanent improvements, (2) the school board confirms the treasurer's estimate and certification, and (3) the state Superintendent of Public Instruction approves the school board's confirmation.

The act adds to this exemption specific references to a number of statutes under which political subdivisions grant property tax exemptions for which they may pay, or may be required to pay, compensation to school districts. Most of these references are indirectly covered under pre-existing law's reference to section 5709.82, and therefore the act apparently makes no change in the substance of the law in these cases. However, it adds a reference to a statute (R.C. 5709.082) that was not previously covered. This statute requires a municipal corporation to compensate school districts and other taxing districts for a property tax exemption granted for a public athletic facility.

Deposit requirements for school districts and other political subdivisions

Deadline for depositing receipts of public money

(sec. 9.38)

Local public officials who received public moneys had to deposit the money once every consecutive 24-hour period, either with the treasurer of the appropriate public office or with the appropriate depository institution. The act establishes new, somewhat longer deadlines, which are based on whether the money received exceeds \$1,000 and whether it can be safeguarded until it is deposited.

If money does not exceed \$1,000 AND can be safeguarded. The act permits public offices to adopt a policy permitting their officials who receive public moneys in amounts of \$1,000 or less to hold the money for longer than 24 hours, but not longer than three business days after receiving it. If the public office is governed by a legislative authority, only the legislative authority may adopt the policy.¹ A board of county commissioners may adopt such a policy with respect to the public offices under its direct supervision and, in addition, the offices of the prosecuting attorney, sheriff, coroner, county engineer, county recorder, county auditor, county treasurer, or clerk of the court of common pleas. The policy must include provisions and procedures to safeguard the money during the intervening period.

If a public office adopts such a policy, officials of that office who receive public money in amounts of \$1,000 or less can deposit the money within the time permitted by the policy, as long as the official can safeguard the money. If a public office does not adopt its own policy, receipts of \$1,000 or less must be deposited on the next business day.

If money exceeds \$1,000 or a lesser amount that cannot be safeguarded. If the amount received is more than \$1,000, or the money cannot be safeguarded, the public official must deposit the money on the next business day.

Designating depositories of public funds

(sec. 135.12)

Authorities of a political subdivision must designate the banks or other depositories in which the subdivision deposits its public funds. Under prior law, the designation had to be made once every two years.

The act lengthens the designation period to once every five years. But it permits subdivision authorities to change designated depositories within the five-year period if the authority determines that the depository is insolvent or is operating in an unsound or unsafe manner.

HISTORY

ACTION

DATE

JOURNAL ENTRY

¹ The act defines "legislative authority" to mean a board of county commissioners, a board of township trustees, the legislative authority of a municipal corporation, or the board of education of a school district.

Introduced	03-02-99	p.	241
Reported, H. Ways & Means	04-27-99	p.	471
Passed House (96-0)	05-04-99	pp.	507-508
Reported, S. Education	06-23-99	p.	658
Passed Senate (32-1)	06-24-99	pp.	693-697
House concurred in Senate amendments (97-0)	06-29-99	p.	1100

99-HB220.123/rss

