



Am. S.B. 310
123rd General Assembly
(As Passed by the Senate)

Sens. Ray, Herington, Prentiss, Drake

BILL SUMMARY

- Authorizes cooperative agreements for the construction and operation of port authority educational and performing arts facilities and financing of such facilities through surplus county lodging tax revenue and issuance of municipal general obligation and port authority revenue bonds.
- Declares an emergency.

CONTENT AND OPERATION

Amendment of existing agreements

Existing R.C. sec. 307.672 authorizes a county and a municipal corporation to enter into a cooperative agreement with a nonprofit corporation to construct and operate a municipal educational and cultural facility, with funding from a 1½% county lodging tax having a duration of up to 15 years and from county and municipal bonds. Under the bill, such a county and municipal corporation, together with a port authority, are authorized to amend the cooperative agreement to provide for a port authority educational and cultural performing arts facility (hereinafter "port authority facility"). However, such an amendment is effective only to the extent that the parties to the amendment determine that the revenue from the lodging tax is not needed to pay for the municipal educational and cultural facility. (Secs. 307.672(D) and 5739.024(E) and (F).)

New agreements for port authority facilities

The bill authorizes a county, municipal corporation, and port authority to enter into a cooperative agreement with a nonprofit corporation for the construction and operation of a port authority facility to be leased to and operated by the nonprofit corporation. (Sec. 307.674(B).) Funding may come from port authority revenue bonds (sec. 307.674(B)(2)(a)), general obligation bonds of the municipal corporation (sec. 307.674(B)(3)), and from an existing 1½% lodging tax

originally levied for the purpose of funding a municipal educational and cultural facility. Under the bill, the legislative authority of a county that levies such a tax may, within 180 days after the bill's effective date, amend the resolution levying the tax to include the funding of a port authority facility as a purpose for which the tax is levied. As mentioned above, this can be done only to the extent that the parties to the amended cooperative agreement determine that the tax is no longer needed for its original purpose. The resolution may also extend the tax up to 25 years or for the period necessary to pay all debt service charges on bonds issued for the financing of municipal educational and cultural facilities and port authority facilities. (Sec. 5739.024(F).) Revenue from the lodging tax may be applied to the retirement of the bonds. (Secs. 307.674(B) and (C) and 5739.024(F).) Revenue from the lease of the facility to a nonprofit corporation may be used only to pay debt service charges on the port authority revenue bonds. (Sec. 307.674(B)(2)(e).)

A port authority cooperative agreement must be terminated if the port authority revenue bonds are not sold within five years of the date of the agreement. The agreement must provide that port authority revenue bonds be secured by a trust agreement between the port authority and a corporate trustee. A lodging tax levied for the purpose of paying the costs of a port authority facility may not be diminished unless substitute security for the revenue bonds, reasonably satisfactory to the trustee, is provided. (Sec. 307.674(C).)

The bill excludes from a county's net indebtedness under sec. 133.07 a pledge of money by the county for purposes related to the construction of a port authority facility. (Sec. 307.674(D).)

Exemption from competitive bidding and other requirements

Under the bill, the cooperative agreement may provide that contracts for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority facility, including previously authorized contracts, are not subject to competitive bidding requirements under sec. 4582.31(R)(2). Prevailing wage requirements do apply. (Sec. 307.674(E).)

A port authority or nonprofit corporation may provide construction and general building services for a port authority facility that it does or will occupy or be responsible for and that is funded in whole or in part by the Ohio Arts and Sports Facilities Commission. The services must be specified in an agreement between the Commission and the port authority or corporation. The agreement and actions taken under it are exempt from most aspects of Chapters 123. and 153. of the Revised Code (governing administration, bidding, and contracting for public works), although the minority set-aside requirement of sec. 123.151 and the requirement of sec. 153.011 concerning the use of steel made in the United States still apply. (Sec. 307.674(E).)

Effective date

The bill contains an emergency clause and therefore will go into immediate effect. (Section 4 of the bill.)

COMMENT

Section 307.674(A)(3) defines the costs of a port authority facility that may be paid from the lodging tax and the bonds authorized in the bill as follows:

"Cost," as applied to a port authority educational and cultural performing arts facility, means the cost of acquiring, constructing, renovating, rehabilitating, equipping, or improving the facility, or any combination of those purposes, collectively referred to in this section as "construction," and the cost of acquisition of all land, rights of way, property rights, easements, franchise rights, and interests required for those purposes, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which those buildings or structures may be moved, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for not more than three years after completion of construction, costs arising under reimbursement agreements or other credit enhancement agreements relating to bonds, engineering, expenses of research and development with respect to such facility, legal expenses, plans, specifications, surveys, studies, estimates of costs and revenues, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the facility, administrative expense, and other expenses as may be necessary or incident to that acquisition or construction and the financing of such acquisition or construction, including, with respect to the revenue bonds of a port authority, amounts to be paid into any special funds from the proceeds of those bonds, and repayments to the port authority, host county, host municipal corporation, or corporation of any amounts advanced for the foregoing purposes.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-20-00	p. 1926
Reported, S. Finance & Financial Institutions	09-14-00	p. 2069
Passed Senate (32-1)	09-19-00	pp. 2074-2075

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