



Ohio Legislative Service Commission

Final Analysis

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Am. S.B. 82

130th General Assembly
(As Passed by the General Assembly)

Sens. Balderson and Gentile, Sawyer, Burke, Cafaro, Hite, Kearney, Oelslager, Patton, Smith, Uecker

Reps. Amstutz, Anielski, Baker, Barborak, Brown, Burkley, Butler, Carney, Celebrezze, Cera, Green, Letson, Milkovich, O'Brien, Phillips, Pillich, Ruhl, Sears, Thompson, Winburn, Batchelder

Effective date: July 10, 2014

ACT SUMMARY

- Authorizes a corrections commission of a multicounty, municipal-county, or multicounty-municipal correctional center to issue securities of the commission to pay the costs associated with certain improvements of the center.
- Provides that membership on the board of the Ohio Legal Assistance Foundation by a member of the General Assembly does not constitute holding another public office or require resignation from the General Assembly.

CONTENT AND OPERATION

Corrections commission securities

Under the act, a corrections commission formed under continuing law to oversee the administration of a multicounty, municipal-county, or multicounty-municipal correctional center may issue securities of the commission to pay for the cost of acquiring, constructing, enlarging, modifying, or repairing any improvements for the center, if the improvements are those for which a county may issue securities.¹ The securities are to be secured by the revenues the commission receives from the counties or municipal corporations that have contracted to create the correctional center and the

¹ R.C. 307.933(A). See R.C. 307.93, not in the act.

revenues it receives for the services provided by the center.² The securities do not constitute debt of the commission or of those counties or municipal corporations.³

Purpose and nature of securities

The commission is permitted to issue securities of the commission (1) to fund or refund the securities it issues pursuant to the act and (2) in anticipation of the proceeds of the securities to be issued pursuant to the act.⁴ Securities issued pursuant to the act, as well as those issued under (1) and (2) above, are subject to the maximum maturity requirements provided under the Uniform Public Securities Law.⁵ For this purpose, the fiscal agent of the commission is to serve as its fiscal officer.⁶ The issuance of these securities need not comply with any other law applicable to the issuance of securities.⁷

Securities issued under the act do not constitute general obligations of the commission or of a county or municipal corporation that contracted for the creation of the center. As such, the general credit or taxing power of a contracting county or municipal corporation cannot be pledged for payment of any part of the principal or interest on the securities. Money raised by taxation by a contracting county or municipal corporation cannot be obligated or pledged for the payment of principal or interest on the securities. The act states that money received by the commission from a county or municipal corporation pursuant to continuing law governing such a center's operation is not to be considered money raised by taxation.⁸

Resolution required

The issuance of the securities must be authorized by a resolution adopted by a corrections commission. The resolution is to include:

(1) A statement that the securities are not general obligations of either the commission or a county or municipal corporation that contracted to create the correctional center.

² R.C. 307.933(E).

³ R.C. 307.933(D).

⁴ R.C. 307.933(B).

⁵ R.C. 133.20(B) or (C), not in the act.

⁶ R.C. 307.933(C).

⁷ R.C. 307.933(J).

⁸ R.C. 307.933(D).



(2) A statement that the commission pledges to fix rates or charges for the services of the center and payments under the contract between or among participating counties or municipal corporations sufficient to provide adequate funds and reserves to pay the debt incurred by the issuance of the securities, after payment of the cost of management, maintenance, and operation of the center or other correctional facilities under the commission's control.

(3) A description of the fund or funds to which the proceeds of the sale of the securities are to be credited and a description of the fund or funds to which any pledged revenue for the retirement of the debt from the securities is to be credited.⁹

The resolution may also contain provisions governing the following subjects, which provisions then become part of the contract with the holders of the securities:

--The sale and execution of the securities, pledging all or any part of the revenues and contract payments to secure the payment of the securities;

--The use and disposition of revenues and contract payments;

--The crediting of the proceeds of the sale of the securities to and among the funds referred to in the resolution;

--Limitations on the purpose to which those proceeds may be applied to refund previously issued securities;

--The use, lease, sale, or other disposition of the center or any correctional facilities under the commission's control;

--As to securities issued in anticipation of the issuance of securities, the agreement of the commission to do all things necessary for the authorization, issuance, and sale of securities in such amounts as may be necessary for the timely retirement of the anticipation securities;

--Limitations on the issuance of additional securities and the terms on which additional securities may be issued and secured;

--The refunding of outstanding securities;

--The procedure by which the terms of any contract with holders of securities may be amended or abrogated, the amount of securities the holders of which are

⁹ R.C. 307.933(F).



required to consent to the change in contract terms, and the manner in which the consent may be given;

--Limitations on the amount of moneys to be expended by the commission for operation, administration, or other expenses of the center;

--Any other provisions related to the security or protection of the securities, as determined by the commission.¹⁰

A corrections commission that issues securities under the act may appoint agents, consultants, independent contractors, or any other type of administrative, investment, financial, or accounting experts as are necessary to carry out the commission's duties under the act.¹¹

Pledged revenues

Revenues pledged pursuant to the act, and thereafter received by a corrections commission, are immediately subject to the lien of such pledge without any physical delivery of the revenues or any further act. A pledge is valid and binding from the time the pledge is made, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the commission or a contracting county or municipal corporation, irrespective of whether the parties have notice of the lien. The resolution by which a pledge is created need not be filed or recorded except in the records of the commission. Neither the members of the commission nor any person executing the securities can be held personally liable on the securities or be subject to any personal liability or accountability by reason of the issuance of the securities.¹²

Any surplus of pledged revenues received by a commission in any year, in excess of the amount of principal and interest payable in that year, and any additional amount as is provided in the resolution authorizing the securities to be held as a reserve for debt service, may be used for the enlargement and replacement of the correctional center or other correctional facilities under a commission's control.¹³

¹⁰ R.C. 307.933(G).

¹¹ R.C. 307.933(I).

¹² R.C. 307.933(K)

¹³ R.C. 307.933(H).



Membership on the Ohio Legal Assistance Foundation board

The Ohio Legal Assistance Foundation is a charitable, tax-exempt foundation created for the purpose of providing financial assistance to legal aid societies and improving the delivery of legal assistance to indigents. The act provides that membership on the Foundation's board of trustees by a member of the General Assembly does not constitute holding another public office or grounds for resignation from the Ohio Senate or House of Representatives under R.C. 101.26.¹⁴

Under R.C. 101.26, a member of the General Assembly may not:

(1) Be appointed as trustee, officer, or manager of a benevolent, educational, or correctional institution that is authorized, created, or regulated by the state and that is supported in whole or in part by funds from the state treasury;

(2) Serve on any committee or commission that is authorized or created by the General Assembly and that provides other compensation than actual and necessary expenses;

(3) Accept any appointment, office, or employment from any committee or commission that is authorized or created by the General Assembly and that provides other compensation than actual and necessary expenses or accept any appointment, office, or employment from any executive or administrative branch or department of the state that provides other compensation than actual and necessary expenses.

HISTORY

ACTION	DATE
Introduced	03-13-13
Reported, S. Finance	10-23-13
Passed Senate (30-0)	10-30-13
Reported, H. Judiciary	01-23-14
Passed House (95-0)	03-19-14
Senate concurred in House amendments (30-0)	03-25-14

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¹⁴ R.C. 101.521(A).

