

3301-8-01

Rules for the payment of debt ~~service~~ charges under the state credit enhancement program.

(A) As used in this rule, the terms "debt charges" and securities" have the same meanings as in section 133.01 of the Revised Code, and "school foundation payments" refers to those payments made under chapter 3317. of the Revised Code.

~~(A)~~(B) The board of education of any school district seeking approval from the department of education and the office of budget and management for participation in the payment of debt ~~service~~ charges under the state credit enhancement program shall submit to the department of education and the office of budget and management a copy of a board resolution requesting participation in the program, and the following information:

- (1) The assessed valuation of the school district as certified by the department of taxation pursuant to division (A) of section 3317.021 of the Revised Code;
- (2) The identification of property holders with more than five per cent of the total assessed valuation in the school district and the assessed value of their property;
- (3) The current credit rating for the school district, and an indication if the school district has an application for credit rating on file with a major credit rating organization;
- (4) ~~The current debt~~Debt schedules for: ~~all outstanding obligations and identification of the current outstanding debt;~~
 - (a) Current outstanding obligations;
 - (b) Current outstanding obligations to which state foundation aid is pledged, including but not limited to solvency assistance loans and emergency school advancement loans;
 - (c) The securities proposed to be issued under section 3317.18 of the Revised Code pursuant to this application.
- (5) The latest school district financial audit;
- (6) The latest school district appropriation budget pursuant to section 5705.38 of the Revised Code;
- (7) A statement as to how participation in the ~~payment of debt service charges~~state credit enhancement program will enhance the marketability of the securities

including the ability of the school district to obtain bond insurance;

- (8) A statement of the current and projected funds due to the school district pursuant to Chapter 3317. of the Revised Code; ~~and~~
 - (9) A statement regarding the purpose of the securites to be issued under section 3317.18 of the Revised Code;~~A statement of other outstanding obligations including spending reserve and emergency school advancement loans.~~
 - (10) A statement regarding whether the district has any reason to believe that it will be unable to pay the debt charges on the securities when they are due; and
 - (11) Contact information for the bond underwriter, bond counsel, and primary paying agent or fiscal agent, if available.
- ~~(B)~~(C) Approval of the request for participation in the state credit enhancement program under section 3317.18(B) of the Revised Code ~~the initial obligations proposed under these provisions~~ shall only be granted if the projected amount to be distributed to received by the school district from school foundation payments under Chapter 3317. of the Revised Code for the current fiscal year ~~each of the last three fiscal years~~ exceeds the outstanding maximum annual debt service charges due in the current or any future fiscal year at any time during the fiscal year by a ratio of ~~1.25~~ 2.5 to one and at any time during the current or any fiscal year, the projected amount of school foundation payments remaining to be distributed in the fiscal year exceeds the debt charges remaining to be paid in that fiscal year by a ratio of 1.25 to one. For purposes of ~~this these calculations~~ calculation, ~~maximum annual debt service charges totals~~ include outstanding and proposed debt under this program plus any other outstanding obligations of the school district to which pledging state foundation aid has been pledged as the a primary security.
- ~~(C)~~(D) ~~After the initial issuance of obligations under this program, any~~Any school district with outstanding obligations approved under these provisions shall not pledge school foundation ~~payments aid~~ due to the school district under Chapter 3317. of the Revised Code as primary security for any debt unless the projected actual school foundation payments to be distributed to the school district in the current ~~each of the last three fiscal years~~ year exceeds the ~~highest outstanding maximum annual debt service charges due in the current or any future year~~ on all outstanding and proposed ~~program obligations plus any prior outstanding obligations that have to which~~ state aid is pledged as the primary security by a ratio of ~~1.3~~ 2.5 to one.
- ~~(D)~~(E) If the department of education approves the request of a school district to withhold and deposit funds pursuant to this section, the school district shall ~~will~~ identify a primary paying agent or fiscal agent who is not an officer or employee of the school district. In addition, when it becomes available the school district shall provide the

department of education and the office of budget and management with a finalized debt schedule for the securities to be issued under section 3317.18 of the Revised Code. The department of education shall then enter into a written agreement with the school district and the primary paying agent or fiscal agent for the ~~securities which shall provide for the withholding of funds pursuant to this section for the payment of debt service charges on those securities, issued under the program,~~ and This agreement shall include the following provisions:

- (1) At least 15 business days prior to the date on which debt charges are due, the school district shall certify to the department of education and the primary paying agent or fiscal agent the amount of any insufficiency in the amount of funds needed to pay in full the debt charges when due.~~The school district and the department of education will prepare a schedule for the payment of debt service charges that assures that the projected amount of school foundation payments under Chapter 3317. of the Revised Code exceeds the amount due for the maximum annual debt service charges, taking into account the availability and timing of school foundation payments by a ratio of 1.25 to one for the initial obligations approved under these provisions, plus any other outstanding obligations that pledge state aid as primary security and a ratio of 1.3 to one for all outstanding and subsequent obligations using state aid as a primary security;~~
- (2) At least 10 business days prior to the date on which debt charges are due, the school district must make a deposit with the paying agent or fiscal agent in an amount sufficient to pay in full all debt charges.~~The school district shall certify to the department of education and the primary paying agent or fiscal agent fifteen business days prior to the date that debt service charges are due on the obligations issued under the program, whether or not the school district is able to pay the debt service charges;~~
- (3) At least 10 business days prior to the date on which debt charges are due, the primary paying agent or fiscal agent shall notify the department of education of any insufficiency in the amount of funds on deposit from the school district from which debt charges are to be paid.~~The school district must have made a deposit to cover all debt service charges due with the primary paying agent or fiscal agent for the securities issues under the program five business days prior to the date that they are due to the owners or holders of those securities; and~~
- (4) ~~The school district and primary paying agent or fiscal agent for the securities will immediately contact the department of education if the school district has failed to deposit a sufficient amount for debt service charges with the primary paying agent or fiscal agent five business days prior to when they are due;~~

~~(E)~~(F) Upon receipt of a notification of insufficiency, the superintendent of public instruction shall immediately determine whether the school district is able to make the payment to cover the insufficiency by the third business day prior to the payment date. If the superintendent of public instruction confirms or determines that the school district will be unable to make such payment by the third business day prior to the payment date, the superintendent of public instruction shall deposit with the bank by 2:00 p.m. (Ohio time) at least one business day prior to the payment date, in immediately available funds, the amount of the deficiency (not exceeding the amount due to the school district for the remainder of the state fiscal year under chapter 3317 of the Revised Code). ~~The superintendent of public instruction shall identify appropriate staff within the department of education to monitor the debt service charge payment schedules for all participants in this program and take actions as necessary to fulfill the provisions of this program. Within at least one day prior to the debt service payment date, staff shall contact the school district and paying agent to confirm whether the district is able to make the required payment.~~

~~(F)~~(G) If a transfer of school foundation payments is required by paragraph ~~(E)~~(F) of this rule, the school district in conjunction with the department of education will evaluate ~~the school district's~~its inability to make pay the debt service charge charges payments and will recommend develop and implement corrective actions that need to be implemented by the school district to ensure full and timely payment by the school district of future debt charges. This plan for corrective action shall be presented by way of letter to the state superintendent of public instruction.

~~(G)~~(H) The agreement between the school district and the department of education shall be irrevocable as long as any of the school district's program debt service charges are outstanding.

~~(H)~~(I) Any credit rating agency which has a current rating of this program will be notified of future material changes to these rules.

Effective:

R.C. 119.032 review dates: 12/12/2003

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3317.18
Rule Amplifies: 3317.18
Prior Effective Dates: 7/1/95