

## **Chapter 3301-8 Payment of Debt Service Charges**

### **3301-8-01 Payment of debt 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 "state education aid" has the same meaning as is in section [5727.84](#) of the Revised Code.

(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 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 school district board-approved resolution requesting participation in the program, and the following information:

(1) The total taxable value of the school district separated into categories of real, tangible personal, and public utility property for the most recent tax year as certified by the department of taxation pursuant to division (M) of section [3317.022](#) of the Revised Code (For each category specify the dollar amount and the percentage that such amount represents of the total value.);

(2) The identification of persons or entities owning property representing in aggregate more than five per cent of the total taxable value of in the school district and the taxable value of their property and the percentage it represents of the total assessed valuation;

(3) The current credit rating or ratings for the school district, and an indication if the school district has made, or expects to make, an application for a credit rating with one or more nationally recognized credit rating organizations with respect to the securities proposed to be issued under section [3317.18](#) of the Revised Code;

(4) Debt schedules and identification of debt for:

(a) Current outstanding obligations;

(b) Current outstanding obligations to which state education aid is pledged, including but not limited to prior issuances under the state credit enhancement program and solvency assistance advances;

(c) The securities proposed to be issued under section [3317.18](#) of the Revised Code;

(d) The aggregate debt with annual and semi-annual payments, combining all outstanding obligations in paragraph (B)(4) of this rule;

(5) The latest school district financial audit;

(6) The latest school district appropriation budget pursuant to section [5705.38](#) of the Revised Code;

(7) The latest school district five-year forecast, including both projections and assumptions, submitted through EMIS (education management information system) or in

such other format as specified by the department within thirty days prior to submission of the state credit enhancement program application;

(8) A statement as to how participation in the state credit enhancement program will enhance the marketability of the securities including the ability of the school district to obtain bond insurance;

(9) A statement of the current and projected state education aid due to the school per the most recent statement of settlement provided by the department of education less the amount of any current year deficit reported on the five-year forecast submitted under paragraph (B)(7) of this rule;

(10) The ratio of the projected amount of state education aid to be distributed to the school district for the current fiscal year to the maximum annual debt charges due in the current or any future fiscal year and the identification of the year in which the maximum annual debt charges occur;

(11) The ratio of the projected amount of state education aid remaining to be distributed to the school district for the current fiscal year to the debt charges remaining to be paid in the fiscal year;

(12) A statement regarding the purpose of the securities to be issued under section [3317.18](#) of the Revised Code (if the issue is for refunding purposes, explain what previous securities are being refunded and whether they were issued under the state credit enhancement program);

(13) A statement indicating the estimated savings afforded to the school district through participation in the state credit enhancement program; and

(14) Contact information for the school district's bond underwriter, bond counsel, and primary paying agent or fiscal agent, if available.

(15) Estimated timeframe for the issuance and sale of bonds. Approval of the request for participation in the state credit enhancement program shall be valid only during the estimated timeframe for the issuance and sale of bonds or up to twelve months from the receipt of the approval.

(16) Bonds supported by an income tax under division (E) of section [3318.052](#) of the Revised Code shall also include the following documents that can be obtained from the department of taxation:

(a) Certification letter providing tax rate, equivalent millage, and, if necessary, effective millage reduction estimates;

(b) Certification of the first year's collections pursuant to section [5748.05](#) of the Revised Code; and

(c) The report of income tax returns by level of income for the most recent tax year available.

(C) Approval of the request for participation in the state credit enhancement program under division (B) of section [3317.18](#) of the Revised Code shall only be granted if the projected amount to be distributed to the school district from state education aid for the

current fiscal year reduced by any current year deficit reported on the five year forecast exceeds the maximum annual debt charges due in the current or any future fiscal year by a ratio of 2.5 to one and at any time during the current or any fiscal year, the projected amount of state education aid remaining to be distributed in the fiscal year reduced by any deficit reported on the five year forecast exceeds the debt charges remaining to be paid in that fiscal year by a ratio of 1.25 to one. For purposes of these calculations, debt charges include outstanding and proposed debt under this program plus any other outstanding obligations of the school district to which state education aid has been pledged as the primary security.

(D) Any school district with outstanding obligations approved under these provisions shall not pledge state education aid due to the school district as primary security for any debt unless the projected state education aid to be distributed to the school district in the current fiscal year exceeds the maximum annual debt charges due in the current or any future year on all outstanding and proposed obligations to which state aid is pledged as the primary security by a ratio of 2.5 to one. However, if after the district has been approved for credit enhancement, the auditor of state certifies a deficit and the district receives a solvency assistance advance under Chapter 3316. of the Revised Code, calculation of the ratio for this provision shall not include the solvency assistance advance.

(E) If the department of education approves the request of a school district to withhold and deposit funds pursuant to this section [3317.18](#) of the Revised Code and this rule, the school district shall 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 withholding of funds pursuant to this section [3317.18](#) of the Revised Code and this rule for the payment of debt charges on those securities. This agreement shall include the following provisions:

(1) At least fifteen 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;

(2) At least ten 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;

(3) At least ten 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.

(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 primary paying agent or fiscal agent by two 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 of

state education aid due to the school district for the remainder of the state fiscal year). Payments made under this provision shall be made before any reduction in state aid is made for reimbursement of a solvency assistance advance under Chapter 3316. of the Revised Code.

(G) If a transfer of state education aid is required by paragraph (F) of this rule, the school district in conjunction with the department of education will evaluate its inability to pay the debt charges and will develop and implement corrective actions 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.

(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 securities are outstanding.

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

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