



Ohio Revised Code

Section 133.22 Authorizing anticipatory securities.

Effective: October 30, 1989

Legislation: House Bill 230 - 118th General Assembly

(A) The taxing authority of a subdivision having legal authority and desiring to issue anticipatory securities that are Chapter 133. securities may pass legislation, and if anticipatory securities are outstanding and are to be paid in whole or in part at their maturity from the proceeds of renewal anticipatory securities, the taxing authority shall pass legislation that does all of the following:

(1) With respect to the bonds anticipated:

(a) Declares the necessity of the bond issue and states its purpose, which shall be for one purpose, and the principal amount or maximum principal amount of the bonds and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the bonds;

(b) If the issuance of the bonds has been approved by a vote of the electors, identifies the election at which approved;

(c) Identifies the source or sources of payment of debt charges on the bonds as provided in division (C) of section 133.23 of the Revised Code.

(2) With respect to anticipatory securities:

(a) States the principal amount or maximum principal amount of the anticipatory securities to be issued and outstanding, not to exceed the amount of the bond issue;

(b) Provides for, or provides for the method for from time to time establishing or determining, the rate or rates of interest or the maximum rate or rates of interest to be paid on the anticipatory securities, the date or dates of the anticipatory securities, and the maturity or maturities or the maximum maturity of the anticipatory securities subject to division (C) of this section;

(c) Establishes provisions, if any, for redemption or prepayment of the anticipatory securities in



whole or in part before maturity;

(d) If the bonds anticipated are payable from a property tax, provides for the levy of a property tax during the years the anticipatory securities are outstanding, not less than the tax that would have been levied if the bonds anticipated had been issued without the prior issuance of the anticipatory securities.

(B) The fiscal officer of the subdivision shall file a copy of the legislation passed under division (A) of this section with the county auditor of each county in which any part of the subdivision is located.

(C) Subject to division (B) of section 133.17 of the Revised Code as to anticipatory securities anticipating the levy of special assessments or the issuance of securities under division (A) of that section, any anticipatory securities issued with a latest maturity of less than two hundred forty months may be renewed from time to time until the expiration of two hundred forty months from the date of issuance of the original anticipatory securities, or, if later, until the final disposition of any litigation that prevents the sale or issuance of the bonds anticipated. If any of the anticipatory securities are outstanding later than the last day of December of the fifth year following the year of issuance of the original anticipatory securities, the following apply:

(1) There shall be deducted from the latest permitted maturity of the bonds anticipated, as determined under sections 133.19 and 133.20 of the Revised Code, the period in excess of those five years during which the anticipatory securities are outstanding.

(2) After the five-year period, a portion of the principal of the anticipatory securities shall be paid in each year in annual amounts at least equal to, and payable not later than the payment dates of, the amounts of principal that would have been paid if bonds payable, as determined by the taxing authority in the legislation passed pursuant to division (A) of this section, as provided in division (A)(1) or (2) of section 133.21 of the Revised Code, had been issued at the expiration of the initial five-year period.

(3) The latest maturity of anticipatory securities may not in any case exceed the maximum maturity of the bonds anticipated plus five years. Anticipatory securities issued with a maturity or latest maturity meeting the maximum maturity limitation of the preceding sentence shall not be issued as



anticipatory securities in anticipation of bonds but shall be payable and paid from other sources.

(D)(1) Notwithstanding any other provision of this chapter, but subject to the provisions of this division (D), sections 9.98 to 9.983 of the Revised Code apply to anticipatory securities issued under this section to the extent made applicable by the taxing authority in its legislation.

(2) Terms used in this division that are defined in section 9.98 of the Revised Code have the meanings stated in that section.

(3) The taxing authority shall in the proceedings set one or more maximum rates of interest for the anticipatory securities.

(4) The taxing authority may reserve the right to replace any remarketing agent and indexing agent at any time after notice of replacement is given and, as to anticipatory securities with a floating rate interest structure or put arrangement, effective at the end of an interest rate period or after a designated put date, upon determination by the taxing authority or by an officer of the subdivision as provided for in the proceedings.

(5) Changes in interest rate, interest rate period, or put dates shall be authorized by the taxing authority or by an officer of the subdivision as provided for in the proceedings.

(6) Proceedings for anticipatory securities having a put arrangement may provide for redemption, with or without premium, at the option of the subdivision at any time, and shall provide for optional redemption as of any put date that is at least six months subsequent to the last previous put date as of which optional redemption could have been exercised by the subdivision.

(7) Proceedings for commercial paper, subject to the limitations set forth in those proceedings, may authorize successive issues of commercial paper in such amounts and with such interest rates and maturity dates as are approved from time to time by an officer of the subdivision and in the manner as provided for in the proceedings, which approvals may be by oral communication prior to delivery of an issue of commercial paper and subsequently confirmed in writing.

(8) Proceedings for anticipatory securities with a floating rate interest structure and for commercial



paper shall set forth the estimated interest rate, based upon then current financial market conditions, that would be borne by the bonds anticipated by the anticipatory securities if these bonds were sold at the time of original authorization of those anticipatory securities. That estimated interest rate shall be confirmed or reestimated in each measure making the annual appropriations of the subdivision unless it has been confirmed or redetermined for that fiscal year prior to the adoption of the annual appropriation measure.

(9) The maximum interest rates set under division (D)(3) of this section shall not exceed the estimated average annual interest rate on the bonds anticipated by the anticipatory securities, unless:

(a) Pursuant to the proceedings for those anticipatory securities and in the annual appropriation measures of the subdivision, if necessary, provision is made whereby payment of the additional interest under any such higher maximum interest rate in excess of the estimated average annual interest rate on the bonds or in excess of the maximum interest rate payable by a person under an interest rate swap arrangement referred to in division (D)(9)(b) of this section, if higher, will be provided for adequately without necessity for the levy of any property tax for the purpose, by:

(i) Capitalized interest, if any, together with;

(ii) Amounts temporarily set aside in the bond retirement fund from moneys in the bond retirement fund not required by law or contract to be used to pay debt charges on any other securities and in excess of other requirements of the bond retirement fund for the current fiscal year, or temporarily advanced for the purpose from any special fund of the subdivision to which the purpose of the anticipatory securities relates, or from the general fund of the subdivision; or

(iii) Any combination of the foregoing; or

(b) There is currently in effect an interest rate swap arrangement between the subdivision and another person, the obligations of which person are rated in one of the two highest rating categories of a national rating agency, pursuant to which interest rate swap arrangement such other person has undertaken to pay interest on the anticipatory securities in excess of such effective interest rate on the bonds.



(10) Provision shall be made in the tax budgets and annual appropriation measures of the subdivision for the amounts and from sources referred to in division (D)(9)(a)(ii) of this section and no tax levy shall be provided for such amounts. Amounts so provided pursuant to division (D)(9)(a)(ii) of this section shall lapse as of the last day of each fiscal year following the fiscal year of the original issuance of the anticipatory securities, and be returned to the fund or account from which they were provided. In the event of failure of the taxing authority to make the appropriation necessary to meet the provision of division (D)(9)(a)(ii) of this section, the anticipatory securities shall be redeemed on or before the last day of the second calendar month of the fiscal year for which the annual appropriations measure adopted fails to make such provisions and in such circumstances the anticipatory securities shall be subject to redemption, at not to exceed their par value.

(E) Renewal anticipatory securities or bonds to pay debt charges on anticipatory securities issued pursuant to this section or section 133.17 or 133.23 of the Revised Code may be issued at an interest rate or rates determined or authorized by the taxing authority, notwithstanding any statutory or charter limitation on interest rates payable on any securities.