



## Ohio Revised Code

### Section 3334.11 Ohio tuition trust fund.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

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(A) The assets of the Ohio tuition trust authority reserved for payment of the obligations of the authority pursuant to tuition payment contracts shall be placed in a fund, which is hereby created and shall be known as the Ohio tuition trust fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition units under tuition payment contracts that the authority determines is actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, all interest and investment income earned by the fund, and all other receipts of the authority from any other source that the authority determines appropriate, shall be deposited in the fund. No purchaser or beneficiary of tuition units shall have any claim against the funds of any state institution of higher education. All investment fees and other costs incurred in connection with the exercise of the investment powers of the authority pursuant to divisions (D) and (E) of this section shall be paid from the assets of the fund.

(B) Unless otherwise provided by the authority, the assets of the Ohio tuition trust fund shall be expended in the following order:

- (1) To make payments to beneficiaries, or institutions of higher education on behalf of beneficiaries, under division (B) of section 3334.09 of the Revised Code;
- (2) To make refunds as provided in divisions (A) and (C) of section 3334.10 of the Revised Code;
- (3) To pay the investment fees and other costs of administering the fund.

(C)(1) Except as may be provided in an agreement under division (A)(19) of section 3334.08 of the Revised Code, all disbursements from the Ohio tuition trust fund shall be made by the treasurer of state on order of a designee of the authority.

(2) The treasurer of state shall deposit any portion of the Ohio tuition trust fund not needed for



immediate use in the same manner as state funds are deposited.

(D) The authority is the trustee of the Ohio tuition trust fund. The authority shall have full power to invest the assets of the fund and in exercising this power shall be subject to the limitations and requirements contained in divisions (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. The evidences of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of state as provided in section 135.18 of the Revised Code. Assets of the fund shall be administered by the authority in a manner designed to be actuarially sound so that the assets of the fund will be sufficient to satisfy the obligations of the authority pursuant to tuition payment contracts and defray the reasonable expenses of administering the fund.

(E) The authority may enter into an agreement with any business, entity, or governmental agency to perform the investment duties of the authority as set forth in division (D) of this section. The investment powers shall be exercised by the business, entity, or governmental agency that entered into an agreement with the authority in a manner agreed upon by the authority that maximizes the return on investment and minimizes the administrative expenses.

(F)(1) The authority shall maintain a separate account for each tuition payment contract entered into pursuant to division (A) of section 3334.09 of the Revised Code for the purchase of tuition units on behalf of a beneficiary or beneficiaries showing the beneficiary or beneficiaries of that contract and the number of tuition units purchased pursuant to that contract. Upon request of any beneficiary or person who has entered into a tuition payment contract, the authority shall provide a statement indicating, in the case of a beneficiary, the number of tuition units purchased on behalf of the beneficiary, or in the case of a person who has entered into a tuition payment contract, the number of tuition units purchased, used, or refunded pursuant to that contract. A beneficiary and person that have entered into a tuition payment contract each may file only one request under this division in any year.

(2) The authority shall maintain an account for each scholarship program showing the number of tuition units that have been purchased for or donated to the program and the number of tuition units that have been used. Upon the request of the entity that established the scholarship program, the authority shall provide a statement indicating these numbers.



(G)(1) In addition to the Ohio tuition trust fund, there is hereby established a reserve fund that shall be in the custody of the treasurer of state but shall not be part of the state treasury, and shall be known as the Ohio tuition trust reserve fund, and an operating fund that shall be part of the state treasury, and shall be known as the Ohio tuition trust operating fund. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition units under tuition payment contracts that the authority determines is not actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, any interest and investment income earned by the reserve fund, any administrative charges and fees imposed by the authority on transactions under this chapter or on purchasers or beneficiaries of tuition units, and all other receipts from any other source that the authority determines appropriate, shall be deposited in the reserve fund to pay the operating expenses of the authority and the costs of administering the program. The assets of the reserve fund may be invested in the same manner and subject to the same limitations set forth in divisions (D), (E), and (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. All investment fees and other costs incurred in connection with the exercise of the investment powers shall be paid from the assets of the reserve fund. Except as otherwise provided for in this chapter, all operating expenses of the authority and costs of administering the program shall be paid from the operating fund.

(2) The treasurer shall, upon request of the authority, transfer funds from the reserve fund to the operating fund as the authority determines appropriate to pay those current operating expenses of the authority and costs of administering the program as the authority designates. Any interest or investment income earned on the assets of the operating fund shall be deposited in the operating fund.

(H) In January of each year the authority shall report to each person who received any payments or refunds from the authority during the preceding year information relative to the value of the payments or refunds to assist in determining that person's tax liability.

(I) The authority shall report to the tax commissioner any information, and at the times, as the tax commissioner requires to determine any tax liability that a person may have incurred during the preceding year as a result of having received any payments or refunds from the authority.



(J) All records of the authority indicating the identity of purchasers and beneficiaries of tuition units or college savings bonds, the number of tuition units purchased, used, or refunded under a tuition payment contract, and the number of college savings bonds purchased, held, or redeemed are not public records within the meaning of section 149.43 of the Revised Code.

(K)(1) The authority and other fiduciaries shall discharge their duties with respect to the funds with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(2) To facilitate investment of the funds, the authority may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(L) In exercising its fiduciary responsibility with respect to the investment of the assets of the funds, it shall be the intent of the authority to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the authority. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The authority shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the authority may contract for the administration of the assets of the funds, the authority shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the authority. Amendments and additions to the policies and



criteria shall be adopted in regular meeting. The authority shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the authority shall comply with the performance presentation standards established by the association for investment management and research.

(M) All investments shall be purchased at current market prices and the evidences of title of the investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof, or in the hands of the treasurer of state's authorized agent. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest thereon as they become due and payable and place them when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by the authority on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The authority may sell investments held by the authority, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The authority and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section except as authorized by the authority.

Any statement of financial position distributed by the authority shall include fair value, as of the statement date, of all investments held by the authority under this section.