

Memorandum Regarding Requirements for State Consents to Board of Education Bond Issue Elections

This memorandum sets forth the requirements for obtaining the consents for placing school district bond issues on the ballot pursuant to R.C. § 133.06.

The consents of the tax commissioner and the superintendent of public instruction are required before the election on any school district bond issue, if the district's net indebtedness, including the proposed bond issue, would be greater than 4% of the district's "tax valuation." If the net indebtedness exceeds 9%, then additional approval is required. See Items 6 and 8 below.

"Tax valuation," in general, means "the aggregate of the valuations of property subject to ad valorem property taxation by the subdivision on the real property, personal property, and public utility property tax lists and duplicates most recently certified for collection" For school districts, starting with the August 2006 election, "'tax valuation' shall not include the valuation of tangible personal property used in business, telephone or telegraph property, interexchange telecommunications company property, or personal property owned or leased by a railroad company and used in railroad operations" R.C. § 133.01(PP). Starting with tax year 2011, the excludable items of public utility personal property (PUPP) will no longer be taxed. Therefore, no subtractions from the total PUPP value are necessary for tax years 2011 and following. For your convenience, the Department of Taxation's Web site, http://tax.ohio.gov/divisions/tax_analysis/tax_data_series/school_district_data/publications_tds_school.stm, contains the valuation amount of the public utility personal property for each school district, which should be added to the total real property valuation from the official taxable valuations contained on the DTE form 13 to arrive at the "tax valuation" to be used in the district's net indebtedness calculation. The tangible personal property valuation is already listed separately on the DTE form 13.

The documents and information described below must be received in the state offices by the deadlines stated below and should be separately mailed or delivered to:

Ohio Department of Taxation
Tax Equalization Division
30 East Broad Street, 21st Floor
Columbus, Ohio 43215-3414
(614) 466-5744

Ohio Department of Education
Office of School Finance
25 South Front Street
Columbus, Ohio 43215-4183
(877) 644-6338

1. **Request for Consents.** A letter requesting the consents, along with Items 6 and 7 below, must be received at the Department of Taxation and the Department of Education

at least 120 days before the election. The other required materials may be filed with the request for consent, but must be filed at least 98 days before the election to enable the superintendent of public instruction and the tax commissioner to certify their decisions at least 90 days before the election. See the superintendent's Policy SF-A-04 (July 2010) for further details. **Note:** If the electors do not approve the issuance of securities at an election for which consents have been received, the school district may submit the same question to the electors at the next special election without submitting a new request for consents. In other words, the superintendent's and commissioner's consents are good for two consecutive elections.

2. **Certified Copy of Resolution of Necessity.** Pursuant to R.C. § 133.18, the board of education adopts this initial resolution declaring the necessity of issuing bonds, the amount and purpose of the bond issue, the maximum maturity of the bonds, and the date of the election at which the question will be submitted. The resolution of necessity must be filed with the county auditor in sufficient time to allow the auditor to certify the estimated average annual property tax levy for the proposed bond issue to the board of education in order for the board to meet the deadline stated in Item 1: Check with your county auditor for an acceptable lead time.
3. **Certified Copy of Resolution Requesting Consents of the Superintendent of Public Instruction and the Tax Commissioner.** The board of education must adopt a resolution requesting the consents of the superintendent of public instruction and the tax commissioner. This request may be included in the resolution of necessity (Item 2) or in the resolution to proceed (Item 5).
4. **Copy of the County Auditor's Millage Certificate.** Upon receipt of the resolution of necessity, the county auditor is required to calculate and certify to the board of education on DTE form 130 the estimated average annual property tax levy for the proposed bond issue. This certification should be made as soon as possible, so the board of education can pass a resolution to proceed and meet the deadline stated in Item 1.
5. **Certified Copy of Resolution to Proceed.** Upon receipt of the county auditor's millage certificate, the board of education must adopt the resolution to proceed and file it, along with the resolution of necessity and the auditor's certificate, with the Department of Taxation and the Department of Education to meet the deadline stated in Item 1 and with the board of elections not later than the usual closing time on the 90th day before the day of the election.
6. **Statement of Net Bonded Indebtedness.** The DTE form 131, Net Indebtedness Calculation for School District Bonds, should be prepared by the school district treasurer

to determine the district's net indebtedness, including the proposed bond issue, as defined by R.C. §§ 133.04 and 133.06. **General Rules:** If such net indebtedness is not greater than 4% of the district's tax valuation, then the consents of the superintendent of public instruction and the tax commissioner are not required. If such net indebtedness exceeds 9% of the district's tax valuation, then the school district must obtain approval as a special needs district under § 133.06(E) from the superintendent. Starting with the November 2011 election, if special needs status is granted, the school district may incur net indebtedness up to 12% of the tax valuation projected by the superintendent. **Exception:** If the proposed issue is to raise the school district portion of the basic project cost, any additional funds necessary to participate in a classroom facilities project under Chapter 3318, including the cost of items designated by the Ohio School Facilities Commission as required locally funded initiatives and the cost for site acquisition, and the cost of other locally funded initiatives in an amount that does not exceed 50% of the school district's portion of the basic project cost, a school district can issue such debt without regard either to the 4% or to the 9% limit (§ 133.06(I)). In other words, a school district can issue such debt without the two consents and without special needs approval. **Caveat:** Such classroom facility debt is still included in net indebtedness. Thus, when the district proposes to issue nonclassroom facility debt or classroom facility debt that includes more than the items underlined above, either at the same election as the excepted debt or at another election, the excepted debt is counted when applying the general rules to the nonexcepted debt.

Note: The property valuations used for this purpose are those contained on the property tax lists and duplicates most recently certified for collection, which are reported on the DTE form 13. They are not necessarily the same as those used by the county auditor to determine the estimated average annual property tax levy under Item 4, which are the actual or estimated values for the current year.

7. **General Certificate.** This statement, available from the Department of Education, certifies the names of the members of the board of education, the board's regular meeting times, the county or counties in which the district is located, the election devices used in the district, and whether classroom facilities assistance has been received from or approved by the Ohio School Facilities Commission. This statement should be signed by the school district's treasurer.
8. **Authorization for "Special Needs District."** A "special needs district" approved by the superintendent of public instruction under R.C. § 133.06(E) should submit a copy of the special needs authorization, certified by the superintendent, to the tax commissioner along with the Request for Consent, if available at that time. However, do not delay filing the Request for Consent simply because the special needs approval has not yet been issued. The superintendent will forward it to the commissioner, when certification is sent to the school district.
9. **Additional Pertinent Information.** Any additional information relating to the requests for consent may also be submitted.