

**AUDITOR OF STATE BULLETIN: 96-010**  
**APRIL 9, 1996**

TO: ALL LIBRARY CLERKS & TREASURERS  
OHIO LIBRARY COUNCIL  
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PUBLIC LIBRARIES

The purpose of this Auditor of State Bulletin is to inform all public libraries of Am. H.B. No. 284 which was effective March 4, 1996. This legislation amends and enacts various sections of the Revised Code relative to public libraries. The legislation authorizes libraries to issue notes to be repaid from the Library and Local Government Support Fund (LLGSF) and eliminates a cap of \$500 a year on the compensation of the librarian of the county law library.

Section 3375.40 (C) is amended to add leasing, remodeling, renovating or otherwise improving, equipping, and furnishing buildings or other facilities under the board's jurisdiction. The legislation expands the board's authority from "purchase or lease automobiles" to "purchase, lease or otherwise acquire motor vehicles." Notes issued to finance acquisitions authorized by this section must now comply with the provisions of Section 3375.404 of the Revised Code.

Section 3375.40 (M) is amended to allow payment of reasonable dues and expenses for the Free Public Library in addition to the library trustees in library associations.

Section 3375.404 is enacted and provides under section (A) (1) through (8) definitions of the following:

- (1) Anticipation Notes
- (2) Authorizing Proceedings
- (3) Board or Board of Library Trustees
- (4) Library Fund
- (5) Note Service Charges
- (6) Notes
- (7) Public Library
- (8) Refunding Notes

Section 3375.404 (B) as enacted provides for a board of library trustees of a public library that receives an allocation of the library fund pursuant to Section 5705.32 and Chapter 5747 of the Revised Code to anticipate its portion of the proceeds of the library fund distribution and issue library fund library facilities notes to pay the costs of financing the facilities or other property referred to in division (C) of Section 3375.40 of the Revised Code, or to refund any refunded obligations. Additionally, this section provides for a library board to issue notes only if it projects that the annual note service charges (including interest, repayment of principal, and redemption premiums) are capable of being paid from the library's annual Library and Local Government Support Fund receipts. The maximum aggregate amount of notes that a board could have outstanding at any time can not exceed an amount that requires in any calendar year payment of note service charges exceeding 30% of the average amount the library received from the LLGSF for the two years preceding the year in which the notes are issued.

Section 3375.404 (C) of the Revised Code as enacted provides for the notes to be payable from the LLGSF money received by the library board issuing the notes, or from the proceeds of notes, refunding notes, or renewal anticipation notes which may be pledged for such payment in the authorizing proceedings. Library fund receipts and proceeds so pledged would be immediately subject to the lien of the pledge without physical

delivery of the money “or further act.” This section states that the lien would be valid and binding “against all parties having claims of any kind in tort, contract, or otherwise” against the library board, regardless of whether those other parties had notice of the lien. No resolution or trust agreement creating or evidencing the pledge would have to be filed or recorded except in the library board’s records.

Section 3375.404 (D) of the Revised Code as enacted states that the notes issued under this section do not constitute a debt, or a pledge of the faith and credit, of the state, the public library, or any other political subdivision of the state, and the holders or owners of the notes have no right to have taxes levied by the General Assembly or by the taxing authority of any political subdivision of the state including the board of the public library, for the payment of note service charges. Notes are payable solely from the funds pledged for their payment as authorized by this section and all notes must contain on their face a statement to that effect. The code section states that the utilization and pledge of the library fund receipts and proceeds of notes, renewal anticipation notes, or refunding notes for the payment of note service charges is determined by the General Assembly to create a special obligation which is not a bonded indebtedness subject to Section 11 of Article XII, Ohio Constitution, or, alternatively, to satisfy any applicable requirement of that Section 11.

Section 3375.404 (E) of the Revised Code states that the maximum maturity, in the case of any anticipation notes, is not to exceed ten (10) years from the date of issue of the original anticipation notes and, in the case of any notes that are not anticipation notes or of any refunding notes, is not to exceed twenty-five years (25) from the date of the original issue of notes, or other obligations for the purpose. The notes shall bear interest at such rates, or at variable rate or rates changing from time to time, in accordance with provisions provided in the authorizing proceedings, be in such denominations and form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, as the board may authorize or provide. The notes may be sold at public or private sale, and at, or at not less than, the price or prices as the board determines. Neither the members of the board nor any person executing the notes shall be liable personally on the notes or be subject to any personal liability or accountability by reason of their issuance.

Section 3375.404 (F) of the Revised Code as enacted provides that notwithstanding any other provision of this section, Sections 9.98 to 9.983, 133.02, 133.70, and 5709.76, and division (A) of Section 133.03 of the Revised Code apply to the notes. Notes issued under this section need not comply with any other law applicable to notes or bonds but the authorizing proceedings may provide that divisions (B) through (E) of Section 133.25 of the Revised Code apply to the notes or anticipation notes.

Section 3375.404 (G) of the Revised Code as enacted provides for specific provisions that could be incorporated in the proceedings, including the crediting of note proceeds among various funds, limitations on the use of the proceeds, limitations on and the terms of issuance of additional notes, the amendment of agreements with note holders, securing the notes by a trust agreement or mortgage on property financed with note proceeds, and “any other matters” affecting the security of the notes.

Section 3375.48 of the Revised Code as amended eliminates the \$500.00 cap on law librarian compensation in the counties where there is only one judge of the court of common pleas.

This bulletin summarizes the major amendments and exactments to the Revised Code by Am. H.B. No. 284 and is not intended to be used as a substitute for the actual legislation. For additional details public offices are encouraged to obtain a copy of the legislation.

Should you have questions pertaining to this bulletin, please contact the Auditor of State’s Local Government Services Division at 1-800-345-2519.