



## **TESTIMONY BEFORE THE SENATE WAYS AND MEANS COMMITTEE**

**AM 0936-1 TO HB 69**

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Chairman Eklund, Vice Chair Terhar, Ranking Member Williams and members of the Senate Ways and Means Committee, thank you for the opportunity to testify before you today on Amendment 0936-1 to HB 69. This amendment exempts Supplemental Executive Retirement Plans (SERP), along with other non-qualified defined benefit plans, from municipal taxation.

As some of you may recall, HB 5, the sweeping municipal income tax reform bill that was passed in 2014, was silent on the treatment for municipal tax purposes of income derived from a Supplemental Executive Retirement Plan (SERP), on the basis that pending court cases would determine whether or not municipalities could tax SERPs within the municipal income tax. The amendment before you today, we feel, violates the spirit of that agreement. This is because the court cases being used as guideposts for municipal SERP treatment, ruled only on the treatment of SERPs by two municipalities. In *McDonald v. Cleveland Income Tax Board of Review* (decision rendered September 26, 2017) and *McDonald v. Shaker Heights*, the court ruled on the technical deficiencies within Cleveland and Shaker Heights' individual tax ordinances and did not extrapolate the decision on a statewide basis.

Additionally, another source of revenue loss for our members is the retroactive treatment of the exemptions, applying the new treatment back to Jan. 1, 2016. Municipalities would be required to refund two years' worth of SERP taxes and more. SERP income was properly considered taxable by municipalities and properly paid by the individual, this money has not been held for refunds. That means refunds will have to come out of 2018 municipal budgets with funding that does not exist.

The expansion of tax exempt status for existing sources of taxable income will impact municipal budgets statewide, creating more revenue loss to already unstable and depleted municipal budgets. The amendment is a continuation of the erosion of local government revenue that cripple the ability of Ohio's economic engines to provide safety and sustainable services to Ohio citizens and local businesses.

Thank you for the opportunity to testify on this amendment. I would be happy to answer any questions you may have.