OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Bethany Boyd

H.B. 291

132nd General Assembly
(As Introduced)

Reps. Wiggam, Lipps, Seitz, Arndt, Merrin, Goodman, Dean, Stein, Henne

BILL SUMMARY

- Authorizes certain county, township, and municipal officials to purchase an "employee dishonesty and faithful performance of duty policy," rather than a surety bond, to cover losses due to the fraudulent or dishonest actions of, and the failure to perform a duty prescribed by law by, an officer, official, employee, or appointee of the political subdivision.
- Allows the purchase of such an insurance policy when a surety bond is required by laws regulating counties, townships, or municipal corporations.

CONTENT AND OPERATION

Authority to purchase insurance policy

The bill, known as the Protect Local Treasuries Act,[1] authorizes certain political subdivisions that are required by law to pay for a surety bond conditioned on the faithful performance of an officer's, official's, employee's, or appointee's duties, to purchase, instead of the bond, an "employee dishonesty and faithful performance of duty policy." The policy must be in a coverage amount that is equal to or greater than the maximum amount of the bond required by law to be given. The following subdivision officials are authorized to purchase the policy:

[1] Section 2.

(1) A board of county commissioners or any other board or county officer, official, employee, or appointee that is required under Title 3 of the Revised Code to pay for a surety bond;[2]

(2) A board of township trustees or any other board or township officer, official, employee, or appointee that is required under Title 5 of the Revised Code to pay for a surety bond;[3] and

(3) The legislative authority of a municipal corporation or any other officer, official, employee, appointee, or member of a board of the municipal corporation that is required under Title 7 of the Revised Code to pay for a surety bond.[4]

The employee dishonesty and faithful performance of duty policy cannot exclude from coverage an officer, official, employee, or appointee required by law to be bonded. The policy must be payable to the same entity to which the surety bond is required to be payable under the law requiring the bond. The policy must be delivered to or filed with the same entity with whom the law requires the surety bond to be delivered or filed.

The bill defines "employee dishonesty and faithful performance of duty policy" as a policy of insurance purchased to protect a county, township, or municipal corporation from financial or property loss due to the fraudulent or dishonest actions of, and the failure to perform a duty prescribed by law by, an officer, official, employee, or appointee of that political subdivision (and, for a municipality, a member of a board of the municipal corporation) that, before the bill's effective date, was required by law to give a bond.[5]

This type of insurance differs from the standard public entity liability policy that a local government might purchase to protect itself from employee-attributable losses, as this type of liability insurance, in general, specifically excludes losses due to criminal or fraudulent actions.[6] The insurance policies authorized under the bill are explicitly

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[2] R.C. 307.442(B).

[3] R.C. 505.604(B).

[4] R.C. 701.02(B).

[5] R.C. 307.442(A), 505.604(A), and 701.02(A).

[6] Ohio Department of Administrative Services, "Public Entity Liability Policy." http://das.ohio.gov/Portals/0/DASDivisions/GeneralServices/RM/pdf/ORM_AQDA_PublicEntityLiabilityPolicy.pdf, p. 11, accessed September 15, 2017.

required to cover these types of actions. The State of Ohio maintains employee dishonesty coverage through the Department of Administrative Services.[7]

Examples of required surety bonds

Continuing law requires the purchase of surety bonds for certain county, township, and municipal officials. Some of the laws require that a bond be "conditioned for the faithful discharge" of the officer's official duties and for the payment of any loss or damage that the political subdivision may sustain as a result of the failure in those duties. A few examples of surety bonds required by law are:

- For a **county commissioner**, a bond in a sum of not less than $5,000.[8]

- For a **county auditor**, a bond in a sum of not less than $5,000, nor more than $20,000, as the board of county commissioners requires.[9]

- For a **county treasurer**, a bond in such sum as the board of county commissioners directs, which may include additional sureties on a previously accepted bond. When, in the board's opinion, more money has passed or is about to pass into the treasurer's hands than is or would be covered by the bond, the board may demand an additional bond from the treasurer.[10]

- For a **township trustee**, a bond in the sum of $1,000.[11]

- For a **township fiscal officer**, a bond in the sum determined by the board of township trustees, but not less than the minimum sum listed in law. The sums range from $10,000 to $250,000, depending on the monetary size of a township's budget.[12]

- For the **treasurer, auditor, and other officers or employees of a municipal corporation**, a bond in the sum the legislative authority fixes by ordinance or resolution.[13] (Municipal corporations, under their constitutional power of local self-

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[7] Ohio Department of Administrative Services, "Crime and Bond." http://das.ohio.gov/Divisions/GeneralServices/RiskManagement/CrimeandBond.aspx, accessed September 15, 2017.

[8] R.C. 305.04, not in the bill.

[9] R.C. 319.02, not in the bill.

[10] R.C. 321.02, not in the bill.

[11] R.C. 505.02, not in the bill.

[12] R.C. 507.03, not in the bill.

[13] R.C. 705.27, not in the bill.

government, already have authority to decide whether to require that a municipal official give some type of surety, and the amount of that surety.[14])

HISTORY

ACTION	DATE
Introduced	06-26-17

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[14] Ohio Const., art. XVIII, sec. 3.