



OHIO LEGISLATIVE SERVICE COMMISSION

Jason Glover

Fiscal Note & Local Impact Statement

Bill: H.B. 705 of the 132nd G.A.

Status: As Introduced

Sponsor: Reps. Hambley and Ingram

Local Impact Statement Procedure Required: Yes

Subject: School treasurer liability for loss of public funds

Fiscal Highlights

- The bill limits the circumstances in which a school treasurer or superintendent may be held liable for a loss of public funds, likely preventing a school district or educational service center from recovering the cost of improper payments in some cases. Such situations appear to be rare.
- The amount of any unrecovered losses will vary depending on the circumstances of each case, but could be more than minimal.

Detailed Fiscal Analysis

Liability for loss of public funds

Under current law, public officials are strictly and individually liable for the loss or misuse of public money under their control, regardless of blame. Like most public officials in Ohio, school district and educational service center (ESC) treasurers must obtain a bond conditioned on the treasurer's faithful performance of all official duties. The bond protects the school district or ESC, not the treasurer, against a loss in the event of misuse of public money.

The bill provides an exception to the general rule of strict liability for loss of public funds for a treasurer of a school district or ESC in the performance of official duties generally and to the treasurer's reliance on the accuracy of various nonfinancial information or data. Thus, a treasurer will not be held liable unless the funds are lost as a result of the treasurer's own negligence or other wrongful act. The bill also protects a school treasurer or superintendent from liability for any losses of public funds specifically stemming from the payment of a teacher who does not have the proper paperwork (for example, a valid educator license) on file unless the payment was due to negligence or a wrongful act.

In general, when an audit determines that public money has been illegally expended, the Auditor of State issues a finding for recovery against the liable public official and the official's bonding company. The public office may then make a claim to the bonding company to recoup the losses. The bonding company will seek

reimbursement from the public official for any claims paid out as a result of the official's failure to faithfully perform duties.

The bill's limits on school treasurer and superintendent liability likely prevent the Auditor from issuing a finding for recovery against those individuals when a loss is not due to negligence or a wrongful act. If so, the school district or ESC will be unable to recover from the bonding company the amounts improperly paid. The amount of a school district's or ESC's unrecovered losses will vary depending on the circumstances of each case, but could be more than minimal. Overall, findings for recovery against school district treasurers and superintendents appear to be rare. As a point of reference, a brief review of the Auditor's records for FY 2017 and FY 2018 found four audits that resulted in a finding for recovery against a school district treasurer, mostly for overpayment of district personnel. The findings ranged from \$1,500 to \$22,000. However, several of those audits indicated that the overpaid employee repaid or was in the process of repaying the misspent money.

Procedure for payment of teacher services

The bill also makes changes to the procedure a school treasurer must follow in order to pay a teacher for services. Before making payment to a teacher, current law requires a treasurer to have received certain documentation from the teacher, including any required reports and a statement from the superintendent that the teacher has filed with the treasurer a valid educator license. Instead, the bill requires a treasurer to receive statements from the superintendent that the teacher has filed with the superintendent the required reports and a valid license. This provision may make the processing of a teacher's paperwork more efficient.