



Catholic Diocese
of Cleveland

Proponent Testimony SB 242
Senate Ways and Means Committee
June 11, 2024

*Chair Blessing, Vice Chair Roegner, Ranking Member Smith, and members of the Senate Ways and Means Committee, thank you for the opportunity to provide proponent testimony today. My name is Kevin Burke. I am the General Counsel for the Catholic Diocese of Cleveland and offer this testimony on behalf of the diocese. I have been an in-house attorney with the Catholic Diocese of Cleveland for nearly 25 years and its General Counsel since 2015. The Catholic Diocese of Cleveland represents the Catholic community in eight counties of northeast Ohio, encompassing Cuyahoga, Summit, Lorain, Lake, Geauga, Medina, Wayne and Ashland counties. It is home to over 613,000 Catholics and 185 parishes. *We strongly support Senate Bill 242, which would expand the charitable use property tax exemption to include religious institutions and put churches and religious institutions on equal footing with other charitable non-profit institutions in the State of Ohio.**

Currently, Ohio law enumerates several bases upon which real property tax exemptions may be claimed. Generally speaking, the reason these exemptions exist is to promote the good work of charitable non-profit organizations in Ohio by allowing them to use property for charitable purposes without incurring property tax. This allows charities and non-profits to focus their funds on the good work they do and recognizes that the important work they do for Ohio communities outweighs the financial benefit of the forgone tax revenue. One such basis for such a tax exemption is set forth in Ohio Revised Code section 5709.12(B), which states that “[r]eal and tangible property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation...” Ohio Revised Code section 5709.121 further clarifies the meaning of “exclusive charitable purposes” by indicating that real and tangible personal property belonging to a “charitable or educational institution or to the state or a political subdivision” will be considered as being used exclusively for charitable or public purposes if it is used by another charitable or educational institution under a lease. In other words, the statutes allow real property to be exempt from tax when such property is leased by one charitable organization to another. Rather inexplicably, however, Ohio courts have held that a church or religious institution, despite being recognized as non-profit organizations and charitable trusts under Ohio law and despite being 501(c)(3) organizations under Federal law, are not to be considered “charitable institutions” for purposes of Ohio Revised Code section 5709.121 and, therefore, not



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eligible to receive a tax exemption for property leased to a charitable institution (*See, e.g., Summit United Methodist Church v. Kinney*, 2 Ohio St. 3d 72)

This, frankly, results in a scenario in which churches are singled out for disparate treatment relative to other charitable non-profit organizations. I do not believe this was ever the intention of the legislature in passing the current statutes, however Ohio court decisions such as the one in *Summit United Methodist Church v. Kinney* have made it so. This legislation will correct what I believe to be an erroneous interpretation of the law and allow churches, which as charitable non-profit organizations contribute greatly to the public good in communities throughout the State of Ohio, simply to be on equal footing with other non-profit organizations with respect to this particular category of tax exemption. This would not only benefit churches but also those charitable institutions that could then utilize church property in accomplishing their good works, further benefiting the public good, particularly in communities most in need of such services.

This is no theoretical problem, as I can attest from personal experience. Any number of parishes of the diocese with underutilized space naturally would be interested in leasing such space for charitable purposes that could benefit the community. However, taking space currently used by the parish and leasing it to a worthy charity would cause the leased property to become taxable under the current statutory law (as interpreted by the courts), thus making the arrangement financially unfeasible, as these parishes and the charities to whom they would lease are simply unable to absorb the resulting tax liability. By way of example, this issue has recently affected the ability of several parishes to lease underutilized space to Catholic Charities of the Diocese of Cleveland.

In closing, I would like to express my gratitude to Sen. O'Brien for her assistance on this legislation. SB 242 will no doubt promote the public good by putting churches on equal footing with other charitable institutions and allowing them to partner with charitable organizations in providing valuable services to our communities. *Thank you for this opportunity to provide testimony. Please feel free to contact me with any questions. I can be reached by email at kburke@dioceseofcleveland.org or by telephone at 216-696-6525 ext. 4360.*