

Ottawa County Treasurer

Robert J. Hille, Treasurer

315 Madison Street, Room 201

Port Clinton, Ohio 43452

Phone: 419-734-6750

Fax: 419-734-6738

Email: bhille@co.ottawa.oh.us

Robert J. Hille – Testimony in support of SB277 Senate Insurance & Financial Institutions Committee March 4, 2020

Chairman Hackett, Vice Chair Hottinger, Ranking Member Craig and members of the Senate Insurance and Financial Institutions Committee, my name is Robert Hille and I am the Treasurer of Ottawa County and have been since 2005, Past President of the County Treasurers Association of Ohio (CTAO) in 2017 and a past member of the Legislative Committee of the CTAO. I was in the banking business for 32 years prior to being elected Treasurer.

Thank you to Senator Schuring for sponsoring this bill and to Senators Brenner, Hoagland and Wilson as co-sponsors.

This bill is extremely important to County Treasurers across Ohio and does two things. First, it sets forth the language to allow financial institutions two business days to remedy an under collateralized position with the Treasurer of State's Ohio Pooled Collateral System (OPCS). Second, it clarifies that the public depositor is not liable for any loss of funds if the public depository fails to comply with the terms set forth in the depository contract relative to the appropriate level of collateral spelled out in the contract.

My testimony will shed light on an incident that happened to me on December 31, 2017, which demonstrates the need for this legislation. In 2017, I had a county account at Fifth Third Bank. I also had a depository contract with Fifth Third to collateralize my deposit at 105%. The Bank failed to meet that requirement on December 31, 2017 and only had the collateral at 91.5%. Fifth Third was a part of the Ohio Pooled Collateral System through the Treasurer of State. The implementation of the new OPCS by the former State Treasurer left shortfalls in its system. Therefore, with communication being one of the shortfalls, I did not find out about this incident until the exit audit conference with the Auditor of State's staff on September 18, 2018. I was cited in the Management Letter of the audit for allowing \$1.6 million dollars of public money to be exposed to a potential loss due to being under collateralized. In explaining the reason for the citing, the AOS pointed to Section 135.182 B(1) of the ORC, which states "provided at all times the total market value of the securities so pledged is at least equal..." and therefore, you must be fully collateralized at all times. From my experience, this standard is not achievable in the daily work procedure in the banking business. This comment became the driving force of my efforts to amend the language in the Ohio Revised Code. The reason the Management Letter comment is so concerning is it could be used to politicize the county

treasurer's position in this case. A County Treasurer is elected on public trust. It would only take a public records request for the Management Letter to allow an opposing political party to bring the risk of a potential loss of funds to the attention of the voters. This would fracture the trust put in the Treasurer and could ultimately cost them the next election. I do not believe this was the intent of the pooled collateral program.

After my citing, I started having discussions with the Treasurer of State (TOS) and the CTAO in October 2018. I delivered a report on the issue at the CTAO fall conference. The CTAO formed a committee of which I am the Chairman to study the situation.

The next several months led to many conversations with the TOS and the Auditor of State (AOS). After further review, the AOS made a determination that there was inconsistent enforcement of Section 135.182 (B)1 between their auditors and independent public accounting firms. Counties that were being audited by independent firms were not getting cited in their Management Letters for undercollateralization. Therefore, the AOS removed the citation from my 2017 Management Letter and issued a new letter to the County. That relieved my personal concerns, however, did not address the issue going forward for County Treasurers.

The CTAO committee review of this issue started with an examination of the daily procedures of all the parties involved in OPCS. The Banks at the end of the day compile reports on investment and collateralization levels. The Banks must file a report containing this information with OPCS by 9:00 AM the next morning. If there is an under collateralized event, the TOS advises the County Treasurer and discussions begin with the Bank regarding the remedy and the timing of that remedy. This process is deemed to be the most efficient. The alternative is intra-day reporting, which neither the Federal Reserve nor the Banks are prepared to do. Finally, after months of discussion, it was determined the only viable alternative was to amend language in the Ohio Revised Code (ORC) to clarify what liability exists. We recognized that this solution will stand the test of time and eliminate the risk of potential changes in policy that might result from political transitions. The AOS audits to the standards of the ORC, and the two business day remedy period in SB 277 clarifies that standard.

The OPCS is a system that holds banks accountable on a daily basis. That is better than the old system that allowed banks to report to the County Treasurer on only a quarterly basis. As an extreme example, the old system allowed the banks to be out of compliance for 89 days, fix it on the 90th day and report to the County Treasurer that collateralization levels were appropriate. This is not to condemn the banking industry, just to show the difference in the two systems.

Since Treasurer Sprague has taken office, the shortfalls in OPCS are being corrected. His staff has listened to our concerns, has been open in communication, been flexible in discussing problems and has brought solutions to the problems. They have developed a set of best practices that guides treasurers through the OPCS system and allows us to document our steps to remedy undercollateralization events, avoiding complications in our daily work and annual audits.

In conclusion, it is my understanding the TOS, AOS and the Ohio Bankers League are in agreement with this solution. I urge support from this committee for SB 277 as this bill ultimately moves to the floor of the Senate for approval.

Mr. Chairman and members of the committee, thank you for your time and attention to this important matter. I am happy to answer any questions you may have at this time.