



County Treasurers Association of Ohio
Senate Local Government and Elections Committee
Proponent Testimony on SB 15
February 16, 2021

Good morning Chairwoman Gavarone, Vice Chair O'Brien, Ranking Member Maharath, and members of the Senate Local Government and Elections Committee. My name is Kevin Futryk and I serve as the Executive Director of the County Treasurers Association of Ohio (CTAO). The CTAO is pleased to be here this morning as a proponent of SB 15, Senator Wilson's bill that applies a negligence standard for treasurer and fiscal officer liability.

First, I would like to offer a little background on why the CTAO asked Senator Wilson to introduce this bill. Under current Ohio law, county treasurers - like school treasurers and other elected treasurers - are personally liable for any loss of investment that is caused by their own actions, *or the actions of others*. This is why county treasurers adhere to a strict code of conduct relative to their office's operations. ORC 9.39 states in part: "All public officials are liable for all public money received or collected by them or by their subordinates under color of office." In short, county treasurers and other fiscal officers are responsible, and therefore personally liable, for the public funds under their control at all times. Although a county treasurer does have a bond to cover all monies that come into his or her hands, in practice that bond makes only the county whole for any losses. The bond company can still pursue the county treasurer for funds because of the personal liability provision. This is an impractical and unfair burden on a county treasurer, especially if they did nothing wrong.

SB 15 is the second installment of a bill the Senate already approved unanimously last Session, SB 277. That bill from Senator Schuring clarified a county treasurer's liability on investments made specifically in the Treasurer of State's Ohio Pooled Collateral System. SB 15 broadens this clarification to cover all investments under a county treasurer's purview by stipulating generally that an officer is not liable for the loss of public funds if the officer performed their duties with reasonable care. However, if the officer was negligent, or committed a wrongful act, then they are still rightfully liable under this bill.

The General Assembly has, in fact, passed this kind of liability protection before. In the 132nd General Assembly, HB 491 was enacted that in part applied a negligence standard for school treasurers. That bill became effective March 20, 2019.

In pursuing this legislation, we spoke with the Auditor of State's office to make sure they had no concerns. The Auditor indicated to us that while he was not opposed to having a negligence

standard, he thought it should be applied uniformly to all treasurers and fiscal officers. We incorporated that feedback in SB 15's predecessor last session, SB 321, which Senator Wilson also sponsored. That bill applied to county treasurers, municipal finance officers, and township fiscal officers. SB 15 has since been expanded to include treasurers of a community college district, technical college district, state community college district, and fiscal officers of boards of library trustees. Thus, we have kept with the Auditor of State's position in applying the negligence standard in this bill across the board, and the CTAO supports the inclusion of these additional groups.

Thank you for the opportunity to provide testimony and I would welcome any questions you may have.