

## **Legislative Proposal to Reduce the Personal, Financial Liability for School Treasurers/CFOs**

Ohio law requires school treasurers/CFOs to be licensed by the state, and the treasurer/CFO in a school district reports directly to the board of education (as does the district superintendent). This creates a system of checks and balances at the local level, allowing boards to receive financial information from an independent source when making decisions upon the recommendation of the superintendent.

However, the treasurer/CFO makes payments on behalf of the district which often rely on non-financial information supplied by the superintendent or his/her designees. Under current law, this puts the treasurer/CFO at risk when inaccurate or incomplete information is supplied and illegal payments are made (i.e., a teacher improperly or inadequately licensed).

The following legislative changes to the Ohio Revised Code are proposed to reduce the personal, financial liability for school district treasurers/CFOs, when illegal payments are made upon reliance of information supplied by others in the district in matters outside the control of the treasurer/CFO.

### **Presented below are proposed revisions to ORC § 3319.36.**

The first two proposed changes would address the process through which the superintendent verifies teacher licensure with the treasurer. This is meant to streamline the process and make it easier to implement. The current requirement that the teacher files with the treasurer a superintendent certification that the teacher's license has been filed with the treasurer is impractical and cumbersome, resulting in difficulty implementing a workable system, as well as superfluous steps.

Although these first two changes address some of the concerns raised by treasurers and although it has the potential, when diligently followed, to reduce the risk of personal liability, these changes alone do not eliminate strict liability. In addition to addressing the process, proposed new subsection (D) addresses, and strives to eliminate, strict liability in the context of payments that were made to teachers in compliance with ORC § 3319.36.

Section 3319.36 sets forth requirements that must be satisfied in order for a treasurer to draw a check for payment of services. It follows that any payment made in compliance with these legal requirements is lawful and should not expose the treasurer to personal liability. Subsection (D) is inserted to make this explicit.

### **3319.36 Requirements for payment of teacher for services.**

(A) No treasurer of a board of education or educational service center shall draw a check for the payment of a teacher for services until the teacher superintendent files with the treasurer both of the following:



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(1) Such reports as are required by the state board of education, the school district board of education, or the superintendent of schools;

(2) Except for a teacher who is engaged pursuant to section 3319.301 of the Revised Code, a **true and accurate certification** ~~written statement~~ from the city, exempted village, or local school district superintendent or the educational service center superintendent that the teacher has filed with the ~~treasurer~~ **superintendent** a legal educator license, or true copy of it, to teach the subjects or grades taught, with the dates of its validity. The state board of education shall prescribe the record and administration for such filing of educator licenses in educational service centers.

(B) Notwithstanding division (A) of this section, the treasurer may pay any of the following:

(1) Any teacher for services rendered during the first two months of the teacher's initial employment with the school district or educational service center, provided such teacher is the holder of a bachelor's degree or higher and has filed with the state board of education an application for the issuance of an educator license described in division (A)(1) of section 3319.22 of the Revised Code.

(2) Any substitute teacher for services rendered while conditionally employed under section 3319.101 of the Revised Code.

(3) Any employee for services rendered under division (F) of section 3319.088 of the Revised Code.

(C) Upon notice to the treasurer given by the state board of education or any superintendent having jurisdiction that reports required of a teacher have not been made, the treasurer shall withhold the salary of the teacher until the required reports are completed and furnished.

**[(D) No treasurer of a board of education or educational service center shall be personally liable for a loss of public funds for any payments of teacher for services that are made by the treasurer in compliance with this section 3319.36 of the Revised Code, unless the loss results from the treasurer's negligence or other wrongful act.]**

### **Presented below are proposed revisions to ORC § 3313.31**

#### **§ 3313.31 Treasurer to perform all duties relating to moneys.**

The current law establishes that a treasurer is not required to verify the accuracy of the district's nonfinancial information or data (unless otherwise required by law). It follows that a treasurer generally should not be personally liable for payments made in reliance on the district's nonfinancial information or data [unless the loss results from the treasurer's negligence or other wrongful act]. The language inserted below makes this clarification.



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(A) All the duties and obligations of the county auditor, county treasurer, or other officer or person relating to the moneys of a school district shall be complied with by dealing with the treasurer of the board of education thereof. The treasurer shall be the chief fiscal officer of the school district, shall be responsible for the financial affairs of the district, and shall report to and is subject to the direction of the district board of education. Except as otherwise required by law, no treasurer shall be required to verify the accuracy of nonfinancial information or data of the school district, and no treasurer shall be personally liable for a loss of public funds that results from a treasurer's reliance on the accuracy of nonfinancial information or data of the school district, including but not limited to, EMIS reports, pupil transportation reports, and Licensure or other credentialing certification[, unless the loss results from the treasurer's negligence or other wrongful act].

(B) Notwithstanding any provision of the Revised Code to the contrary, but subject to section 3319.40 of the Revised Code, in all school districts and educational service centers, the treasurer shall direct and assign employees directly engaged in the day-to-day fiscal operations of the district or service center, as those employees are so designated by the board of the district or service center.

### **Presented below are proposed revisions to ORC § 3313.25**

The language inserted below clarifies the scope of personal liability of a school district treasurer. This clarification is necessary to align a treasurer's scope of liability with a treasurer's duties under ORC Ann. § 3313.31, and in order to attract candidates to become school district treasurers.

#### **§ 3313.25 Bond of treasurer of board.**

Before entering upon the duties of his/her office, the treasurer of each board of education shall execute a bond, in an amount and with surety to be approved by the board, payable to the state, conditioned for the faithful performance of all the official duties required of him/her. Such bond must be deposited with the president of the board, and a copy thereof, certified by him/her, shall be filed with the county auditor.

A treasurer of a board of education shall not be held personally liable for a loss of public funds when the treasurer has performed all official duties required of him/her with reasonable care, but shall be personally liable only when a loss of public funds results from the treasurer's negligence or other wrongful act.