



Treasurer Shawn T. Wooden

TESTIMONY SUBMITTED TO THE FINANCE, REVENUE AND BONDING COMMITTEE
APRIL 29, 2019

Senator Fonfara, Representative Rojas, and members of the Finance, Revenue and Bonding Committee, thank you for the opportunity to submit testimony regarding several bills before you today.

1. Senate Bill 1134, *An Act Restructuring the State Bond Commission and Establishing a Dedicated Bonding Section within the Legislative Office of Fiscal Analysis*

As the head of the state's public finance arm, I offer my comments on the provisions of this bill which would fundamentally alter the way in which the state finances its capital needs.

The Treasury's Debt Management Division is responsible for the issuance and management of the State's \$25 billion debt portfolio. In addition to issuing bonds to finance state capital projects, the division manages debt service payments and cash flow borrowing, maintains the State's rating agency relationships, and administers the Clean Water and Drinking Water loan programs. We also coordinate the issuance of bonds with State quasi-public authorities, including Connecticut Innovations, Connecticut Health and Educational Facilities Authority, Connecticut Housing Finance Authority, and the Connecticut Higher Education Supplemental Loan Authority, to name a few.

This bill would reconstitute the State Bond Commission and create a bonding unit within the Office of Legislative Management. The current Commission consists of six executive branch members -- including the Treasurer -- and four legislative branch members. Under this bill, the bonding unit would consist of legislative leadership of both chambers, as well as ranking members of the Finance, Revenue and Bonding Committee, with no executive branch representation. The President *pro tempore* of the Senate and Speaker of the House would serve as co-chairs and jointly prepare the agenda for each meeting.

This new approach presents Constitutional issues that could delay the State's issuance of bonds -- or put such issuance at risk altogether.

As you know, the State relies on several law firms to issue an 'unqualified' opinion regarding the validity and tax exemption of bonds before they are issued. Bonds will not be accepted in the market without such an opinion. In rendering this opinion, bond counsel must adhere to a standard that requires that they be *firmly convinced* (also characterized as having 'a high degree of confidence') that, under the law in effect on the date of the opinion, that the highest court in the relevant jurisdiction, acting reasonably and properly briefed on the issues, would reach the legal conclusions stated in the opinion. While the absence of precedent directly on point does not necessarily prevent a lawyer from rendering an unqualified opinion, bond counsel must still make a professional judgment as to whether or not they can meet the standard of being "firmly convinced" that the Connecticut Supreme Court would agree with the opinion.

The issue presented by Senate Bill 1134 rests on the separation of powers doctrine, as set forth in Article Second of the Connecticut Constitution: whether or not the Commission performs an executive branch function and whether having it comprised of exclusively legislative members violates the doctrine. The Connecticut Supreme Court has set forth a standard that a statute violates this doctrine if it: (1) confers on one branch of government the duties which belong exclusively to another branch; or (2) confers the duties of one branch of government on another branch, which duties significantly interfere with the orderly performance of the latter's essential functions.

While the question of constitutionality is considered by bond counsel (and whether or not the issue rises to the level of counsel being unable to render their opinions), the State's ability to issue bonds may be significantly delayed and hampered. This could impact the State's ability to issue debt and the ability to fund critical investments in capital projects, as well as Connecticut's standing in the markets. These consequences can be severe.

Because of the constitutional questions and the issues that follow, I strongly urge the committee to not act favorably on Senate Bill 1134.

2. Senate Bill 1142, *An Act Concerning Strategic Transportation Planning and the Financing Thereof*

With regard to Senate Bill 1142, *An Act Concerning Strategic Transportation Planning and the Financing Thereof*, I appreciate the proponent's commitment to studying options for financing necessary infrastructure improvements in a comprehensive way. Given the longstanding debate on this issue and the various proposals currently before the legislature – such as the creation of an state infrastructure bank, reestablishing tolls, diverting existing bonding to fund infrastructure investments, and exploring public/private partnerships -- any effort to take a holistic approach to funding infrastructure improvements is commendable, and I wholeheartedly endorse these efforts. Whatever direction this General Assembly decides to take, I respectfully ask this Committee to formally include the Treasurer as a member of the Strategic Transportation Planning Commission, and to include the appropriate resources to support the Treasury's participation as the State's public finance arm. Any commission or body tasked with evaluating financing options and considering debt issuances to fund infrastructure projects should include the Treasury as part of the discussion.

3. Senate Bill 1137, *An Act Concerning Deposits in Lieu of Taxes*

I greatly welcome the intent of this measure, as it seeks to increase investment in, and ultimately redevelop, communities within distressed municipalities throughout our State. I am particularly supportive of the broad charge of the bill to address economic and social issues through bold, new initiatives. It bears noting that the proposed legislation, as written, creates a number of responsibilities and mandates for the Office of the Treasurer that cannot be accomplished through existing appropriations. As drafted, the Treasurer would be required to manage a community development fund, including the receipt and disbursement of fees, while also serving on and chairing an oversight council. This would require administrative and compliance monitoring, for which resources would need to be appropriated. I respectfully ask the legislature to be mindful of my office's need for additional staff and resources should this Committee favorably act upon this bill.

4. Senate Bill 1138, *An Act Concerning Community Restoration Funds*

As with Senate Bill 1137, I applaud the committee for contemplating proposals that would make critical investments in our neediest communities. However, I must express similar concerns

that this legislation, as drafted, places new responsibilities on the Office of the Treasurer, as well as creates an additional oversight council for which the Treasurer would serve as chair. Additionally, Senate Bill 1138 creates an investment advisory role for the Treasury and creates a new annual reporting requirement. Additional personnel and resources would be required to fulfill these new responsibilities in the manner contemplated by the bill.

Thank you for the opportunity to submit testimony on these bills. Please do not hesitate to call on me should you have any questions.