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March 27, 2019

In Support of -2 Amendment to SB 977

Chair Prozanski, Vice-Chair Thatcher, Members of the Committee,

RE: Official Undertaking of Justice of the Peace, -2 Amendment to SB 977

The Oregon Association of County Clerks supports the -2 Amendment to SB 977, repealing ORS 51.250.

The Undertaking and supporting Justifications are historical requirements that were intended to protect a county from a judge who took the money and ran, rather than pay the money to the county treasurer. There was also a companion statute, repealed in 1999, that allowed the county treasurer to bring a civil action against a Justice of the Peace for a defalcation of payment for the amount of the defalcation plus a 20% penalty. Thus, a county had recourse against both sureties as well as the Justice of the Peace. We believe this practice as being an archaic practice, no longer relevant or necessary. It was valuable in the days of rural settlements having a Justice of the Peace located away from the County Seat.

Currently, some counties follow the law. However, most counties have bonded or insured all elected officials against errors and omissions or defalcations and have waived the Undertaking and Justifications. There may be and very likely are counties that have just waived the Undertaking and Justifications.

Until the Undertaking and Justification requirements are repealed, any Justice of the Peace who has not complied with that qualification of office risks a potential challenge to any judgment or action by reason of failing to qualify for the office of Justice of the Peace.

None of the other Art VII judges, or Oregon Judicial Department judges, have such a requirement, which may of itself be good reason to repeal those particular provisions.