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PA STATE LEGISLATORS

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## **To the Pennsylvania Legislature Open Letter addressing legislative initiative LOSAP Program for Pennsylvania Firefighters and Emergency Services:**

Whether a crisis in the fire service, it is just a financial reality that both U.S. and State Governments have historically for over 30+ years spent more money than they have collected and have amassed large debts. While it cannot be argued that all the honorable and virtuous projects and programs developed may alleviate suffering, the reality is that the U.S. infrastructure (including emergency services infrastructure) is being decimated as is other basic infrastructures due to many decades of honorable Government projects while piling up massive debt for the United States, including the Commonwealth of Pennsylvania. Pension plans of State employees/school districts are significantly underfunded relating to actuarial realities.

Many of current fire service initiatives are built upon either: a) low cost/no cost initiatives; or b) provide more mandated criteria requirements and more governmental controls to Fire Companies. Adding more mandates, regulations, and governmental control just converts Volunteer Fire Companies to career Fire Companies in an expedited manner. (In some quarters would argue that is a positive; in other quarters, there will be massive significant increased costs to each municipality and the State taxpayers.)

**LOSAP Project:** In the fire service history of Pennsylvania, there have been monumental pillars that sustain a volunteer ethic of the Pennsylvania Volunteer Fire Service (historical and continuing genius):

1. Empowering communities/villages to protect itself from fire or rescue incidents. Everybody focusing on the greater good for no person payment or gain. In exchange, they help their neighbor and they create an embracing value-added culture within the community.

2. The [Act 84 Relief Association funding system] Historically, it was money provided to Fire Companies that would address only fire protective PPE and life-saving equipment for Firefighters programs and equipment. This has been whittled down to the point where these monies can be applied to most anything, though, they are subject to the Pennsylvania Auditor's Office audit. This is an ingenious program.

3. The Pennsylvania State Fire Commissioner's [Volunteer Fire Company Grant system] providing a base amount of money per Fire Company throughout the State. It has an internal audit process and there is accountability on the spending greatly impactful program.

4. **Legislative Opportunity.** The fourth fundamental pillar may be the enactment of a LOSAP authorizing statute. The concept is that persons who provide volunteer fire or volunteer EMS services will be provided the opportunity of a benefit of a LOSAP account. Such accounts will have a powerful impact for both recruitment and retention providing there is a basic honest fundamental method of allocating funds and certifying those who are eligible.

### **The LOSAP Program:**

1. Funding is provided by a percentage of money from the State plus the Firefighter may contribute using their own monies plus municipal monies (if any) to an account that is (like an IRA) where the contributions can grow at a tax-free rate with annual limitations on contribution to said accounts. This would: a) also cause a migration of increased population (even white collar persons) in the fire service; and b) essentially provide no cost burden upon the State or possibly local municipalities.

2. To be eligible for a Pennsylvania LOSAP account:

A. participants have to show completion of a Pennsylvania Essentials class. Firefighter I Pro-Board Certifications would result in a 5% increase in threshold contributions permitted to the account. An Officer I Pro-Board Certification would provide a 10% increase threshold contribution to the Firefighter's account.

- B. participation would only apply to 'Active Firefighters' defined as physically and cognitively capable Members in good standing who are responding and experienced, trained, or skilled to respond to fires and missions of Volunteer Fire Companies.
- C. The Legislature should include that the Officers of the Fire Company as fiduciaries are required to certify annually the participants and retain those lists subject to the Pennsylvania Auditor General's review, and a copy provided to each serviced municipality. The Fire Officer certifying as fiduciary agents accountable to the Commonwealth of Pennsylvania as to accuracy and compliance with the program. Failure to comply with one's fiduciary duties shall result in surcharging, together with civil and criminal penalties.
- D. Career Firefighters or EMS personnel participating in other pension plans are still eligible to establish a LOSAP account, but not contribute more than the baseline threshold amounts.

### **Other fire and EMS proposals needed to save Volunteer Fire Companies:**

1. Amend the Open Records Act to explicitly exclude Volunteer Fire Companies/ Departments. Municipal monies that are provided to the Fire Companies by Statute are open to review by the municipalities. It makes sense to permit Open Records Act requests to the municipalities because related municipally-based finances should be subject to Open Records Act review. Such administrative requirements being forced upon Volunteer Fire Companies is expensive, is really unfair, and not necessary. The Open Records Act being applied to Volunteer Fire Companies do not improve transparency but drives volunteers in the Fire Companies out.

2. Firefighter Cancer Legislation. The Legislation was helpful in creating: a) occupational disease classification in the Workers' Compensation Act for Firefighters' cancer. [Thank you] However, the Court systems so far have only interpreted the presumption as 'administrative' but not substantively. Not good for Firefighters who have contracted cancer through the years, but good for the Commonwealth of Pennsylvania as Workers' Compensation carriers would: a) significantly raise municipal Workers' Compensation premiums; or b) not participate in markets that include Firefighter Workers' Compensation coverage. (Of course, the State can fund a CAT "Firefighter Cancer" Fund for cancer claims that would ultimately go bankrupt like the 1980's no-fault automobile insurance benefits.) (Fix the presumption or eliminate the presumptive language.)

3. Child Abuse Clearances. It is fire service rumor that the suspension of the fee for Child Abuse Clearance registrations is only temporarily waived.

- A. Why is this Abuse Clearance information required of Volunteer Firefighters who have never been charged with any crimes? [= unconstitutional]
- B. Why is this information not being retained by the Fire Company rather than having confidential information being held in a very confidential bureaucracy like the Pennsylvania Department of Welfare? (I am sure the Legislature would feel

comfortable being required to register for a Child Abuse Clearance and to have all of that very confidential data being held by the Pennsylvania Department of Welfare.)

C. Provide free registration forever. Make the Department of Welfare agencies' disclosures a criminal felony except for subpoenas or Court Orders.

4. Please have the Legislature receive input on any new proposal as to its consequential impact on Volunteer Fire Companies from those who have to actually live under the Law or any and all of its consequential impact.

Anybody can lay down new rules, mandatory SOGs, Statewide standards and qualifications, but any one of those will have consequential and continuing damage to the Volunteer Fire Companies of Pennsylvania.

Yours very truly,

MEARS, SMITH, HOUSER  
& BOYLE, P.C.

*s/ Kim Ross Houser*  
Kim Ross Houser

KRH:mad