



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
SENATE COMMUNITY, ECONOMIC & RECREATIONAL
DEVELOPMENT COMMITTEE,
SENATE LOCAL GOVERNMENT COMMITTEE,
HOUSE LOCAL GOVERNMENT COMMITTEE, AND
HOUSE URBAN AFFAIRS COMMITTEE**

ON

ACT 47

PRESENTED BY

**ELAM M. HERR
ASSISTANT EXECUTIVE DIRECTOR**

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HARRISBURG, PA**

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Chairpersons Earll, Eichelberger, Creighton, and Ross and members of the Senate Community, Economic & Recreational Development and Local Government Committees and House Local Government and Urban Affairs Committees.

Good morning. My name is Elam M. Herr, and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,455 townships in Pennsylvania represented by the Association.

Townships comprise 95 percent of the commonwealth's land area and are home to more than 5.5 million Pennsylvanians — nearly 44 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents to more populated communities with populations approaching 60,000 residents.

We are not here today as experts on Act 47 of 1987, the Municipalities Financial Recovery Act, as our members have had only limited experience with this law. To date, only two of our members have gone through the Act 47 process and one of those was Westfall Township, Pike County, which was faced with a unique situation that you have heard about in previous testimony.

We are primarily concerned with the reasons that our communities are faced with financial difficulties. We believe that the difficult economy is straining those with tight financial positions to the breaking point, as municipalities have limited, inflexible revenue options and, even though the municipal portion of real estate taxes are small compared to that of the school district and county, the last thing that township officials want to do is to increase property taxes. However, more are being forced to do so as the real estate tax is the only revenue option available. While many townships have held the line for years, they cannot continue to do so when faced with continually escalating costs.

At all levels, government's role is to provide the facilities, programs, and services that individuals cannot otherwise provide for themselves and that the private sector cannot or will not deliver. Like that of the Commonwealth, local government's funding to deliver these services is primarily generated by taxes. However, unlike the commonwealth, local government's taxing capacity is limited to the authority granted by the state.

One of the major challenges that local governments face is how to balance their citizen's needs and desires for services with the ability to pay for these services. Act 47 status is often caused by overspending and over delivery of services.

For local officials to respond adequately to the needs and demands of their citizens, they must have the authority and flexibility to tailor their tax structure to best meet these needs. Local governments must be able to choose the proper mix of taxes to generate sufficient tax revenues to meet the needs of the community. The tax base must be fair to all citizens and maintain a balance between residential and business taxpayers.

In order to prevent more municipalities from being forced into Act 47 status in the future, local tax reform is needed to provide municipalities with more flexible options. Townships in Bucks County face different challenges than those in Juniata County. As such, until we undertake the effort needed to substantially reform our local tax system and achieve a broad-based, long-term solution, revenue capacity challenges will continue for municipalities of all sizes, in all areas of our commonwealth.

As testifiers at the prior hearing pointed out, labor costs can substantially drive up a municipality's expenses and are frequently the largest budget item for local governments. These costs are often the result of arbitration awards over which the township has little, if any control – as the arbitrator is prohibited by state law from considering the municipality's ability, or lack thereof, to pay for the arbitration award. This creates a financial challenge for all municipalities with police and fire employees that must provide for township services while managing to pay for costs imposed by arbitration awards.

Reform of the arbitration process that would place local elected officials and the citizens that they represent in a better position to negotiate collective bargaining agreements and avoid damaging arbitration awards would be beneficial to all local governments. In lieu of replacing binding arbitration with mediation, these reforms should require both parties to bear the responsibility of paying for the third, neutral arbitrator, not just the local government. The third arbitrator should be a resident of the same county in which the municipality is located or at least from the region where the municipality and county are located.

In addition, all timetables applicable to a municipality's implementation of an arbitration award should be held in abeyance during any period of legal appeal brought forth by the municipality. Specifically, arbitration awards should not be binding on a municipality if the award would:

- ♦ create a financial hardship;
- ♦ cause a municipality to borrow funds or increase taxes above statutory limits;
- ♦ cause a municipality to become distressed; or
- ♦ cause a municipality to suffer a reduction in its established bond rating.

Specific to Act 47, a recent Pennsylvania Supreme Court case concluded that while Act 47 states that “collective bargaining agreements and arbitration settlements” must conform with the municipality's Act 47 plan, the court considered an “arbitration settlement” to be different than an interest arbitration award, and therefore not constricted by the Act 47 language.

Clearly this decision is detrimental to the Act 47 process and will make it even more difficult for municipalities that are attempting to exit from this process. As such, we support SB 1321, which would amend Act 47 to address this issue.

In addition to labor costs, the state and federal governments have freely transferred to local governments the responsibility for delivering numerous goods and

services to the public without the benefit of state or federal tax dollars for implementation. Local governments are currently experiencing difficulties in adequately funding basic public services because they have been forced to shift money from already strained budgets to carry out additional mandates. And even more expensive, economic development-stifling environmental mandates are on the horizon. Our Association has long supported policies that will ensure the preservation of our environment for all Pennsylvanians, however we must do so without imposing an undue financial burden on our residents. Every policy, federal or state, should be examined to ensure that the cost of the measure does not outweigh the environmental and health benefits that it will provide.

Unfunded environmental mandates will have an even greater impact on our communities in the coming years unless we take a multi-pronged approach to environmental protection at the state and federal levels that provides for diverse, multifaceted alternatives to meet local environmental needs. The magnitude of initiatives, such as the Chesapeake Bay Tributary Strategy and future Watershed Implementation Plans, cannot be borne alone by local government or its taxpayers. Unless adequate federal or state funding is provided, the one-size fits all approach without regard to cost will only serve to bankrupt our communities and bring economic development to a halt.

In addition, some townships encounter situations where they are mandated to alleviate a serious health and safety situation by DEP, such as septic tank failure within a village area, and the cost is enormous for the benefit of a few. Clearly, the township must implement the mandate for the health and safety of its residents regardless of the cost. However, such mandates can place a township in a precarious financial position.

Also, very limited funding is available to assist with the installation of sewer and/or water and in recent years, some townships have exhausted all available resources, including loans, performing feasibility studies just to find out that the proposed solution is not feasible. The result is that the township is strapped with a significant loan with no solution to the environmental problem and very limited, if any, ability to repay the loan.

Some have suggested that regionalization would solve many fiscal distress issues, but we contend that regionalization is only one option and that it comes at a cost. Regional police departments generally provide a broader level of service than individual departments, but this often leads to higher labor costs to the participating municipalities. The regionalized police will receive the highest wages and benefits of the participating municipalities' former police departments. Plus, regionalization is often complicated by legacy costs and local politics – including the uniformed employees being consolidated into a regional agency.

Centralization is not necessarily better, and whether services should be provided by individual municipalities or combined through voluntary intermunicipal cooperation is a decision that must remain with each local government and its citizens.

We recognize that municipalities are creations of the state and that the state is empowered to take the actions it believes are necessary when a local government fails.

However, we must oppose any proposal that would dissolve municipalities into unincorporated territory administered by the county as a solution to fiscal distress. County government should not be given additional municipal powers to govern unincorporated territory. Instead, the legislature should consider giving such powers to municipalities to help alleviate distressed financial situations.

Finally, we do not believe that state government should take a lead role in pursuing local government boundary changes, and at no time should any local government be forced without citizen approval to merge, consolidate, or form regional entities to perform local functions. Such action should be initiated only by petition of the citizens of the affected municipalities or by agreement of the governing bodies, and the question should be voted on and approved by a majority of those residents voting in each of the affected municipalities.

In closing, the Association strongly believes that local and state government are partners in the delivery of critical services — among them, transportation, public safety, environmental protection, and economic development. We believe that a stronger partnership, combined with consideration of the proposed reforms mentioned, would help reduce the municipalities in need of the Act 47 process and make it possible for some of those municipalities currently in Act 47 to exit.

Thank you for the opportunity to testify today and I will now attempt to answer any questions that you may have.