CCAP COUNTY COMMISSIONERS™ ASSOCIATION OF PENNSYLVANIA
Serving Counties Since 1886

CENTRAL OFFICE
17 North Front Street, Harrisburg, PA 17101-1624
phone (717) 232-7554 • fax (717) 232-2162

NORTH OFFICE
PO Box 60769, Harrisburg, PA 17106-0769
phone (717) 526-1010 • fax (717) 526-1020

TESTIMONY ON ACT 47, THE MUNICIPALITIES FINANCIAL RECOVERY ACT

BEFORE THE

SENATE COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT COMMITTEE
SENATE LOCAL GOVERNMENT COMMITTEE
HOUSE URBAN AFFAIRS COMMITTEE
HOUSE LOCAL GOVERNMENT COMMITTEE

PRESENTED BY
DOUGLAS E. HILL
EXECUTIVE DIRECTOR

Harrisburg, PA
December 8, 2011

Good morning. I am Douglas Hill, Executive Director for the County Commissioners Association of Pennsylvania. The CCAP is a non-profit, non-partisan association providing legislative and regulatory representation, education, research, insurance, technology, and other services on behalf of all of the Commonwealth's 67 counties.

It is my privilege today to present to you our comments on county experience with Act 47, the Municipalities Financial Recovery Act.

Counties' involvement with Act 47 can come in two ways, first by being subject to the Act's provisions, and second by being part of the local solution when other entities are experiencing distress. Let me take each in turn.

The review of county involvement under the act is relatively succinct – there have been to my knowledge no counties that qualified as distressed under the terms of the Act. We attribute this outcome to several factors, not least of which is that in comparison to municipalities the counties are larger, have a more diverse economic and demographic base, and consequently are better able to weather regional economic changes that often spell boom or bust for urban and suburban communities.

Moreover, while we have a comparable level of mandates and structural challenges, they are arrayed differently for counties. For example, while our court and records management functions might have some special challenges due to the decentralized structure under which the commissioners budget on behalf of independently elected officials, the overall balance of statute and case law applicable to counties does not per se create structural budget issues.

Similarly, the statutes governing other mandates, including human services, emergency management, elections, and others, do not typically present structural problems; for example, while counties may have the same percentage of unionized workforce as municipalities, most of ours are under Act 195 which does not yield the difficult types of results municipalities find under Act 111. Counties also have fewer issues with administrative mandates; for example, the county pension law allows broad discretion in benefit levels, giving county elected officials more latitude to match benefits to local financial conditions. And typically, counties have larger, more specialized organizational structures that can better absorb challenges and exert leadership during economic downturns or administrative transitions.

At the other end of the spectrum, counties can be partners in helping municipalities achieve regional solutions. Some are more direct and comprehensive; for example, statutory changes that moved solid waste planning and 911 emergency response and dispatch to the county level assured uniform statewide delivery of these services, and relieved municipalities of financial and administrative cost centers in the process. In a less comprehensive way, counties also have the capacity to step in on regional economic development, land use, and transportation projects to name a few.

Counties' experience under the Act itself has been nominal. Only a handful of counties have needed to take advantage of the Act, almost all simply working with the Department of Community and Economic Development under its Early Intervention Program (EIP). The small boost of outside assistance seems to have been sufficient, and seems to have been offered and administered by the Department in an appropriate and helpful fashion.

We have reviewed the testimony presented to the Committees earlier by the Local Government Commission and by DCED. We add parenthetically that we appreciate and commend the Commission for the work they did in developing and advocating passage of the Act, and our members' observations of DCED administration of the Act are generally positive. As to the testimony, for the most part we agree

with the observations, conclusions, and recommendations they make, although we have several points that deserve elaboration.

First, the Department comments that revenue streams for cities, boroughs and townships are largely inelastic and do not sync with budget needs. We concur, but note that the problem is even greater for counties, in two respects: Unlike the municipalities, which have access to an earned income tax, counties must rely exclusively on the real property tax for their local tax revenue generation; and unlike municipalities, the option for a distressed entity to exceed statutory tax caps is a meaningless recovery strategy for counties when the only alternative is the property tax.

Second, while we cannot deny their conclusion that there may be municipalities that are not viable, we do not believe we are yet ready for either forced consolidation or for municipal dissolution and absorption by the county or its neighbors. The Department rightly notes that there are multiple structural impediments – governance structure, differing labor mandates, differing benefit mandates, capital inequities, legacy costs – for which there are no ready solutions. The prudent first step would be to provide some flexibility in the underlying statutes that currently hinder voluntary solutions.

Third, the Department's recommendations relative to tax exempt property are well taken, and we note in addition that many non-profit entities have become expert in pushing the boundaries of the Institutions of Purely Public Charity Law, to obtain or attempt to obtain exemptions for what would in any other circumstance be considered a taxable property. While not as directly pertinent to today's testimony, we suggest that that Act be reviewed in the near future to determine whether the bar is set too low in some of its tests, yielding exemptions too easily when compared to the Constitutional intent. As the Department notes, tax exempts continue to be members of the community and to draw on local services, but their cost is shifted onto the other taxpayers.

Last, we concur with the notion that local autonomy must be respected, and that the Act should be a tool of assistance, with proper balance between local needs and the form that assistance under the Act takes. Counties' experience with the Department, and most of counties' observations of Departmental interaction with their municipalities, whether through EIP or distress status, indicates that this balance is largely being met. While institutional and structural change may be frustratingly slow, it is often a necessary component to the local buy-in that is precedent to long term success.

While we believe Act 47 has established itself as an appropriately measured mechanism to deal with potential and actual local distress, ultimately the best alternative is to prevent counties and municipalities from reaching that level of need in the first place. Admittedly, there is no way for the Commonwealth to prevent global economic crises, nor can the state prevent the consequences of (fortunately infrequent) poor local leadership. But apart from Act 47 there are Commonwealth policies that clearly drive local fiscal conditions.

As noted previously, mandates are the primary driving force in local government services, at the county level accounting for between 80 percent and 90 percent of local budgets. The DCED testimony identified structural mandates (pension requirements, benefit level requirements, collective bargaining requirements), and everyone has a common understanding of service mandates (emergency management, elections, human services, corrections). But in addition there are administrative mandates (interrelationships among office-holders, composition of boards, centralization or decentralization of administrative and budget controls), procedural mandates (bidding, prevailing wage, service delivery methodologies, categorical funding), and service level mandates (changes in caseload) that all drive costs on a year to year basis.

We suggest three responses. First, address mandates by regularly reviewing their scope, public policy basis, administrative efficiency, cost-benefit, and similar factors.

Second, provide for alternative local revenue bases that are reflective of local economic and demographic conditions, and to some degree the type of service being provided. A local tax base that relies almost exclusively on the real property tax is unsustainable, and Pennsylvania should join the broad majority of states that allow local options such as the sales tax. Models considered previously by our General Assembly have included components of shared tax bases and incentives for regional collaboration. At the same time, some services are amenable to service charges – utilities, solid waste management, court costs, and 911 services are good examples – but the fee structures need to be flexible enough to encompass new service delivery models and to encompass changes in service delivery cost.

Last, the Commonwealth must recognize and acknowledge the significance of its interrelationship with local fiscal conditions. In many counties, nearly half of the revenue budget consists of state and federal funding, to meet the demands of state and federal mandated services. Historically it is rare that this funding meets the full cost of the mandate, and in the last decade state and federal support has increasingly fallen far short of local need.

Counties have experienced a wide range of funding cuts spanning several areas of mandated obligations, beginning in 2003, and continuing up through and including the current fiscal year. The cuts have been made not only during budget deliberations, but in the past three fiscal years, mid-year freezes and budget reserve actions by the Governor have further reduced county allocations in mental health, drug and alcohol, human services, medical transportation and housing programs. Cuts as deep as 47% have been made to some programs, and the cumulative impact of repeated reductions in the same line items are resulting in counties receiving less state and federal support in 2011 than they did nearly a decade ago.

Additional fiscal challenges occur regularly, and often with little notice. For example, counties are now facing surprising reductions in children and youth funding, compared to anticipated allocation levels that were announced after the adoption of the 2011-2012 state budget. This comes in the form of new child welfare mandates arising from interpretive guidance issued by the Department of Public Welfare, without commensurate funding for the costs of county compliance, and resulting in an enormous shift in cost-bearing to the county share for children and family services.

In this example, and in many others, counties are responding as well as they can with their limited resources and limited tax bases. It is unfortunate that the lack of fair state and federal funding and the lack of alternative local tax bases means that in any given year – including commissioner election years – somewhere between a quarter and half of the counties are compelled to raise property taxes. It is a last-resort choice, after service reductions, revenue enhancements, administrative efficiencies, and reserve depletion have all been taken. Clearly, holding the line at the state and federal level does not translate to the capacity to hold the line at the local level, and often means the reverse.

While no county is yet in distress status, these larger structural issues of the state and county relationship need to be addressed and the downward slide needs to be reversed. We have begun, based on provisions adopted in the Public Welfare Code this past June, to work with DPW on strategies to restructure human services delivery so that we can achieve greater efficiencies. Primary strategies include opportunity grants, which would use the federal waiver process to allow us to restructure local service delivery to better meet the needs of local populations. While this may be a longer-term strategy, it signals the type of creative thinking that will be necessary to meet our needs and our constituents' needs going forward.

Thank you for your consideration of these comments.