

TESTIMONY OF ALBERT H. BIENSTOCK
PENNA. SENATE LOCAL GOVERNMENT COMMITTEE
OCTOBER 18, 2012

Chairman Eichelberger, Chairman Blake and members of the Local Government Committee, thank you for holding this hearing on SB 1570 and for allowing me to provide testimony.

My name is Al Bienstock. I own and operate a small business in Hampden Township, Cumberland County. I also serve on the Hampden Board of Commissioners since 2002 and as Board president and police commissioner since 2010.

It is important to point out that while I believe my colleagues generally concur with my testimony today, we have not discussed this as a Board and have not taken any formal action. These comments represent my own views. I do know that the Pennsylvania State Association of Township Commissioners (PSATC), of which Hampden Township is a member, supports the bill and is a member of the Coalition for Sustainable Communities.

Hampden Township is the largest municipality in Cumberland County with over 28,000 residents. We have about 105 Township employees, one-quarter of whom are uniformed police officers. The Police Department is the only collective bargaining group. For the two most recent Collective Bargaining Agreements, I've served on the negotiating committee. I should note that our Fire Department consists of volunteers.

The CBA negotiation in 2006 was during a stable economic period while Hampden's population was growing and the CBA reflected that. Four years later, economic conditions had deteriorated significantly. New development, a mainstay of our revenues, had dwindled. Earned Income Tax revenues were not increasing at previous levels and, in fact, began to diminish. To exacerbate the difficulties, unfunded mandates, such as those associated with the Chesapeake Bay cleanup, came into play. Changes in the way EIT collections were made, per Act 32, took one full quarter out of our revenues and deferred them to the following year.

During our most recent negotiation, our Police Department employees understood the situation and the fact that the Board of Commissioners had determined not to raise taxes on our already suffering residents. We explained that we were determined not to lay off employees (uniformed or non-uniformed) or to reduce hours, though some positions would not be filled when employees left our employ. We also deferred capital purchases, some road repairs and other items as best we could. We negotiated a contract with a very low net compensation increase for the first half of a four-year contract with the final two years to be negotiated mid-contract. At that point, with the poor economic conditions that still existed, a very reasonable compensation/pension package was agreed upon.

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Soon we'll be negotiating a new CBA. I believe we have one of the finest police departments in Pennsylvania and would like to compensate them and our other employees accordingly. But we still face economic uncertainty and limited revenues. Quite frankly, I anticipate a difficult negotiating session as we try to meet the needs of our employees while remaining fiscally responsible to our residents.

That's a long preface to why I'm testifying today. Hampden Township has an excellent relationship with the Police Department's collective bargaining unit because we discuss situations, face-to-face, and we understand and respect each other's positions. My concern in arbitration is that decisions are made not by those directly affected but by unelected individuals who have "no skin in the game." There is a perception that municipalities have unlimited resources through the power to tax so arbitrators sometimes "split the baby" despite hardships imposed on taxpayers. In addition, as Act 111 is currently constituted, the municipality is in an unfair economic situation as it is responsible for the costs of its own arbitrator as well as the neutral one and for costs that are not equally split with the other side.

As township commissioners, my colleagues and I are charged with both the administrative and legislative functions of government. We must balance the merits of this bill by taking into consideration the sometimes disparate positions of our valued employees and our taxpayers. In my opinion, the proposed changes to Act 111 through SB 1570 are steps in the right direction. Distributing arbitration costs evenly between the parties is more equitable. With both sides sharing costs of a negotiating impasse, the labor organization is more likely to bargain in good faith. The requirements for new costs to be justified and for caps are welcome additions to the process as is the removal of non-statutory pension and post-retirement healthcare benefits as subjects of collective bargaining.

Though it does not directly relate to the legislation at hand, I urge the elimination of "prevailing wage." Forcing municipalities to pay higher costs than warranted by a fair bidding process takes revenues that might otherwise be used for employee compensation or other needs. I understand that is not likely to happen any time soon, but it needs to be said at every opportunity.

While I'm at it, let me make a pitch for Right to Work. I'd like to be able to compensate officers based on performance rather than some average. And, I suspect, the officers who perform the best would like to have their excellence tangibly recognized.

Thank you for your consideration. I look forward to responding to any questions you may have.