Testimony for Joint Public Hearing on Binding Arbitration
House and Senate Local Government Committees
By Brian K. Jensen, Ph.D.
Thursday, June 12 2014

Thank you for the opportunity to provide testimony regarding issues surrounding Pennsylvania's municipalities and the pressing need for reforms to level the field in regards to binding arbitration.

The Pennsylvania Economy League has a 78-year history of conducting independent, non-partisan research and is committed to sound public policy that enhances the competitiveness of the Commonwealth. I am the executive director of the Pennsylvania Economy League of Greater Pittsburgh. In my 27-year career at PEL, I have worked to make Pennsylvania local government more efficient, more effective and more economically competitive.

It is in the light of PEL's tradition of researching and promoting good government management practices and structures that we have been engaged in an ongoing analysis of the distressing situation that Pennsylvania's municipalities face. We believe that reforms on a number of fronts are critical to the financial health of Pennsylvania municipalities and central to Pennsylvania's future generally. Specifically, I would like to convey to the committees some of the highlights of our research on binding arbitration and offer some conclusions on sound public policy that is indicated by the research.

The incidence of financially stressed municipalities is geographically widespread in Pennsylvania. A map at the end of this testimony shows municipalities that PEL has identified as suffering from some category of financial distress, whether it be inclusion in the Act 47 program, inclusion on PERC's

pension plan distress list or identification in the annual PEL Municipal Stress Index. According to our analysis, over one-third of Pennsylvanians live in a municipality with a high degree of financial stress. Indeed, there are few counties that do not have at least one distressed municipality.

Why are so many of the Commonwealth's cities, boroughs and townships struggling to maintain financial health? I would submit that the problem stems fundamentally from outdated and imbalanced state laws, Act 111 being among the chief problems. Systemic shifts in the U.S. economy have damaged the tax bases of such former commercial and industrial centers as Chambersburg, Johnstown, McKeesport, Norristown, Reading and West Mifflin. These economic shifts, though difficult, can be coped with if municipalities are given the flexibility to adapt to changing circumstances. It is largely the lack of flexibility that Pennsylvania law offers to local government to act in the best interest of its constituents that undermines the financial health of so many municipalities.

State law hamstrings municipal financial health by artificially and counterproductively increasing service delivery costs beyond what taxpayers can bear. For example, as the House Local Government Committee discussed yesterday, rigid state pension laws escalate municipal costs. Pension health is essential to Pennsylvania's viability as a location to live, work and invest. We have yet to correct the problem, and Pennsylvanians are suffering from rising taxes and curtailed service delivery. We need to bring reality to our pension practices or our municipalities will continue to fail.

Imbalanced binding arbitration provisions likewise escalate municipal costs beyond the ability of many municipalities to cope:

- Arbitration panels are under no requirement to calculate and consider the fiscal effect of an award on a municipality.
- The strike list of potential neutral arbitrators includes just three names, providing a very constricted field. Moreover, the municipality is required to make the first strike of the three names, meaning that the bargaining unit always has the final say in who will be the neutral arbitrator.
- Arbitration sessions are not public with the consequence that taxpayers are generally unaware of the discussion until after the fact. Open hearings would incentivize both employer and employee to be reasonable in their arguments and expectations.
- The cost of the neutral arbitrator falls solely on the municipality, a situation that offers little disincentive for employees to go to arbitration.
- The appeal process for arbitration decisions is so tightly constricted that there is seldom room for a municipality to challenge decisions on the basis of financial hardship.

Any one of these provisions puts the employer at a disadvantage. Taken in total they add up to a law that tilts the scale in favor of the employee – frequently to the disadvantage of the taxpayer. The negative effects of all this are insidious – an arbitration ruling in a given municipality sets the bar for successive arbitration awards in other municipalities. That bar has been steadily raised to fiscally unsustainable heights.

How do we know arbitration decisions are excessively costly? Two charts at the end of this testimony compare the average annual police and fire wage increases for Act 47 plans and Act 111 awards. PELGP was able to locate wage

increase information starting in 2006 for 14 Act 47 plans and for Act 111 awards in 51 cities, boroughs and townships. The charts show that in Act 47 municipalities, wage increases were held down to the rate of inflation or lower. Of the 51 police and firefighter contracts, wage increases ordered under binding arbitration exceeded the average rate of inflation 44 times, or put another way, Act 111-mandated wage increase for uniformed employees were higher than the inflation rate 86 percent of the time. The average annual wage increase for police and fire arbitration awards, at 2.97 percent, was nearly double that of Act 47 municipalities, at 1.59 percent.

This cost containment stems from the provision in Act 47 that requires that arbitration awards not conflict with the cost control provisions of the applicable municipal recovery plan. While we did not depict it in the chart because the time frame for the binding arbitration award preceded the time period considered here, it is worth noting that the 2005-2007 police arbitration award in pre-Act 47 Altoona required an annual three percent increase. By contrast, Altoona's current police wage increase under Act 47 is 0 percent – that is to say, a pay freeze is in effect. Municipalities other than the 21 under Act 47 have no such "ability to pay" provision. The charts make clear that in the absence of such cost control provisions, labor costs tend to soar.

To be clear, PEL does not advocate the curtailment of collective bargaining rights. We do, however, think that the playing field has been tilted for too long to the disadvantage of the employer, who in the end, of course, is the taxpayer.

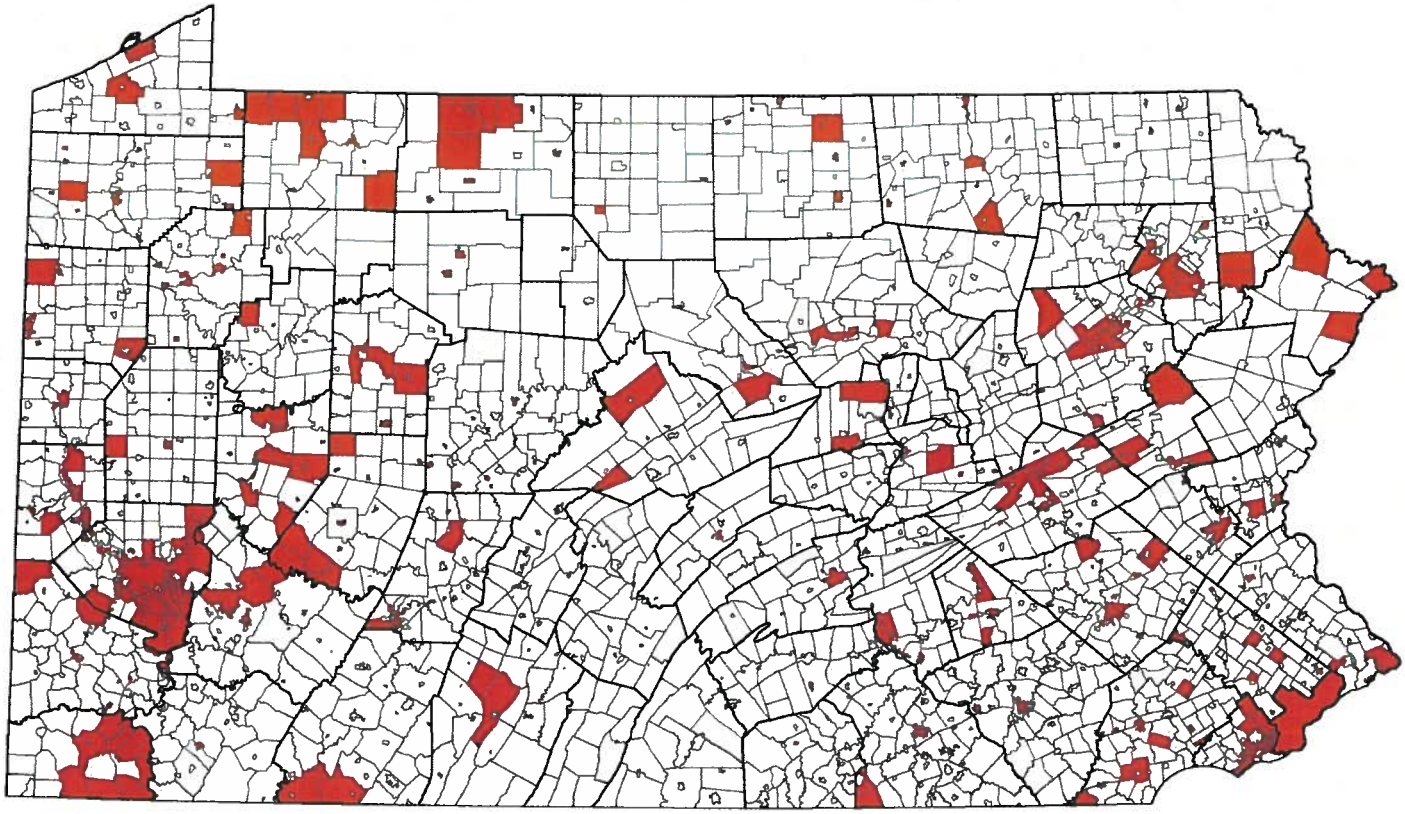
Stepping back for a second and looking at the debilitating wage and benefit pressures that Pennsylvania's municipalities face, it is readily apparent that were

the Commonwealth to start with a clean slate, it would not pass the pension and binding arbitration laws that are currently on the books. Pennsylvania will not be able to restore municipal financial heath and sustainability in the absence of reforms to the significant cost drivers of pensions and binding arbitration.

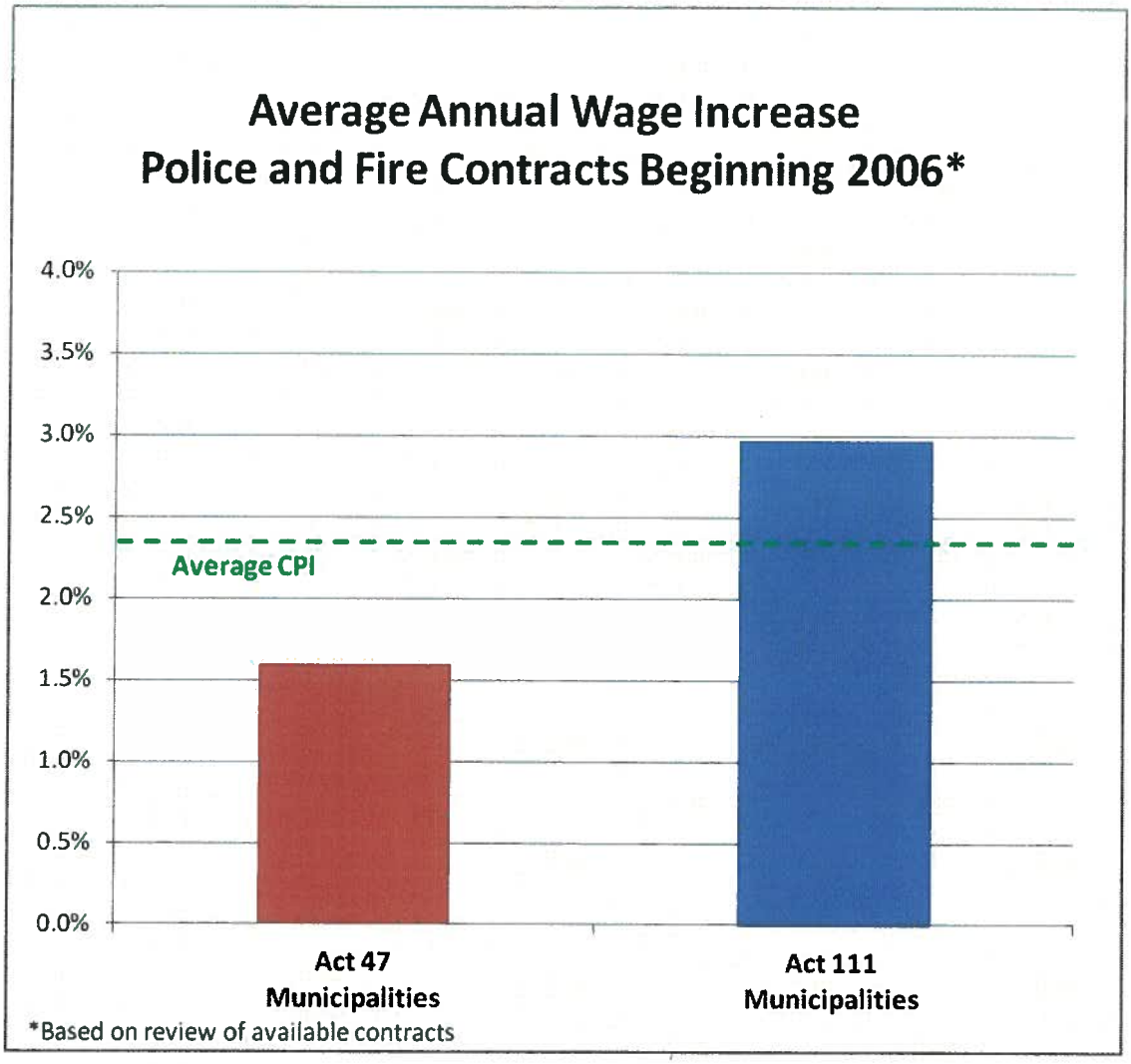
The Allegheny Conference on Community Development and the Pennsylvania Economy League are proud to be members of the Coalition for Sustainable Communities, a large and growing coalition of 35 chambers of commerce and municipal and other business organizations committed to promoting legislative reforms to strengthen our communities. Public policy that promotes sustainable municipalities, particularly in the areas of public pension and binding arbitration reform, is the key goal of the Coalition for Sustainable Communities. Thank you again for the opportunity to express our views on the problems of Pennsylvania's municipalities.

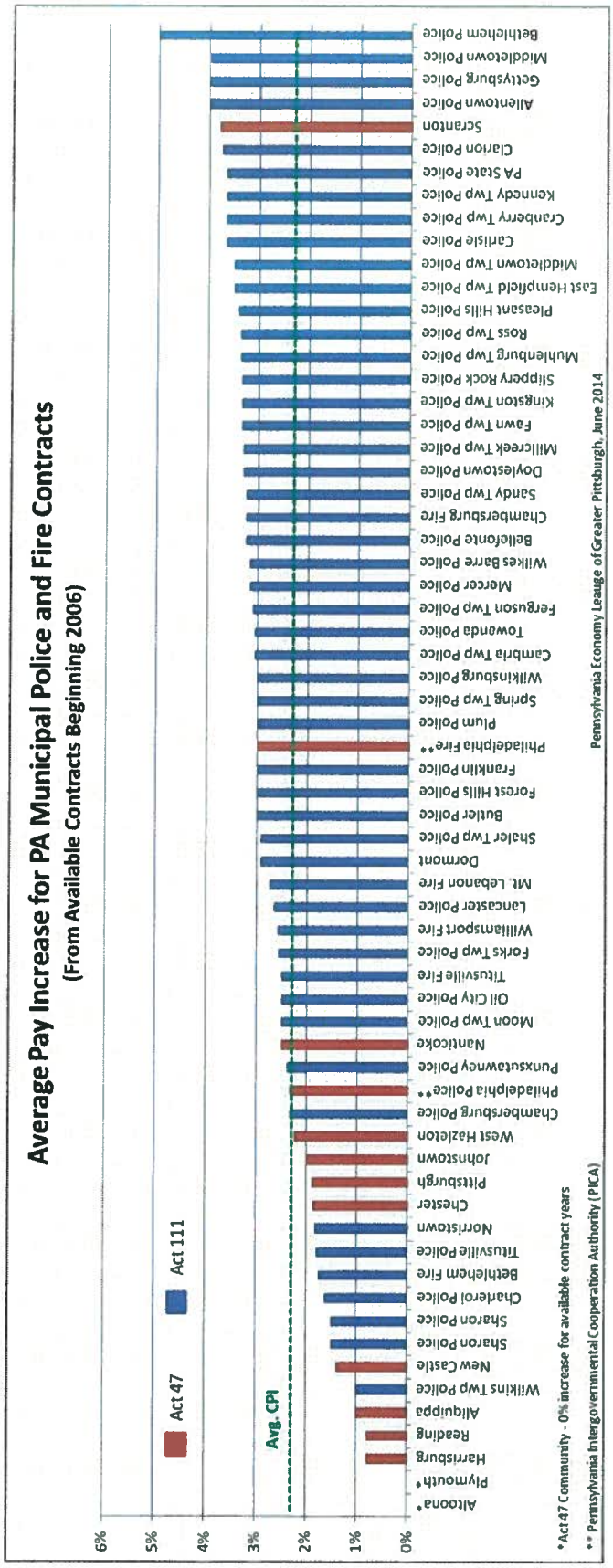
Pennsylvania Municipal Financial Stress

(Act 47, Pension Distress, PEL Stress Index)



Pennsylvania Economy League of Greater Pittsburgh - April 26, 2013


Average Annual Wage Increase
Police and Fire Contracts Beginning 2006*
4.0%
3.5%
3.0%
2.5%
2.0%
1.5%
1.0%
0.5%
0.0%
Average CPI
Act 47 Municipalities
Act 111 Municipalities
*Based on review of available contracts


Average Pay Increase for PA Municipal Police and Fire Contracts
(From Available Contracts Beginning 2006)
Act 47
Act 111
Avg. CPI
6%
5%
4%
3%
2%
1%
0%
Altoona*
Plymouth*
Harrisburg
Reading
Aliquippa
Wilkins Twp Police
New Castle
Sharon Police
Sharon Police
Charleroi Police
Bethlehem Fire
Titusville Police
Norristown
Chester
Pittsburgh
Johnstown
West Hazleton
Chambersburg Police
Philadelphia Police**
Punxsutawney Police
Nanticoke
Moon Twp Police
Oil City Police
Titusville Fire
Forks Twp Police
Williamsport Fire
Lancaster Police
Mt. Lebanon Fire
Dormont
Shaler Twp Police
Butler Police
Forest Hills Police
Franklin Police
Philadelphia Fire**
Plum Police
Spring Twp Police
Wilkinsburg Police
Cambria Twp Police
Towanda Police
Ferguson Twp Police
Mercer Police
Wilkes Barre Police
Bellefonte Police
Chambersburg Fire
Sandy Twp Police
Doylestown Police
Millcreek Twp Police
Fawn Twp Police
Kingston Twp Police
Slippery Rock Police
Muhlenburg Twp Police
Ross Twp Police
Pleasant Hills Police
East Hempfield Twp Police
Middletown Twp Police
Carlisle Police
Cranberry Twp Police
Kennedy Twp Police
PA State Police
Clarion Police
Scranton
Allentown Police
Gettysburg Police
Middletown Police
Bethlehem Police
* Act 47 Community - 0% increase for available contract years
** Pennsylvania Intergovernmental Cooperation Authority (PICA)
Pennsylvania Economy League of Greater Pittsburgh, June 2014