

STATEMENT OF GARY M. LIGHTMAN, ESQUIRE  
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REGARDING SENATE BILL 1111, PRINTER NO. 1539  
BEFORE A JOINT COMMITTEE  
JUNE 12, 2014

I have practiced law in the Commonwealth of Pennsylvania for over forty years. My practice was rather unique in that I exclusively represented the interests of men and women serving in the capacity of law enforcement.

For all of those years, any issues involving collective bargaining were resolved through the utilization of Act 111 of 1968.

For its almost forty-six year history, this Act has served all parties well and most importantly, fairly. Act 111 has been in place during good economic times and bad economic times. It was not so long ago that there were massive layoffs in the Philadelphia Police Department, in Pittsburgh and in municipalities throughout the Commonwealth and yet during those times, Act 111 was a valuable tool to preserve peace and stability throughout the Commonwealth.

Police officers and firefighters covered by Act 111 learned to accept the awards of arbitrators whether good or bad and continued to provide the valuable and essential service required by the citizens of the Commonwealth of Pennsylvania. Now, after forty-six years, there is an attempt to literally gut this law.

It is important to understand that police officers and firefighters, unlike most other public and private employees, gave up the right to strike in order to engage in binding arbitration. It seems only appropriate that if one side is giving up a powerful tool, what they receive in exchange should be at least fair with a level playing field for all parties. What the legislature

crafted in 1968 was exactly that --- a fair and equitable way of resolving labor disputes without any interference in critical public services.

Now, after forty-six years, an attempt is being made to change all the rules and, in fact, change them in such a way that the interests of the police and firefighters covered by this law would be irreparably damaged. The concept of fundamental fairness would no longer exist.

I would like to take the time remaining to outline those changes proposed in Senate Bill 1111 and explain the dramatic effect they would have.

I would start by pointing out that not one of the suggested changes in Senate Bill 1111 would benefit the interests of police officers or firefighters. All of these changes are solely for the benefit of management. It is shocking to see that a law that was meant to create a fair resolution of disputes could become so dramatically one-sided.

Some of the examples are as follows:

(1) This proposed law on line 23 of page 7 specifically prohibits the right to bargain over post-retirement, healthcare or pension benefits that are not statutorily required. If the benefit is statutorily required, then it would seem logical that the police officers and firefighters would have to have the benefit. If it is not statutorily required, that would be a matter within the discretion of the parties to determine whether or not it is appropriate. For example, many benefits involving medical and pension are specifically by statute not mandatory, but are discretionary. For example, a cost-of-living benefit could be added to pension plans but are not mandatory. Therefore, this section would strip rights of police officers and firefighters to bargain collectively over any matter involving pensions or post-retirement medical. Both items, obviously, have critical importance to them.

(2) On line 11, page 4, there is a proposed change to mandate a list of seven arbitrators rather than the current three with the provision that at least one of the seven must be a resident of the municipality or at least contiguous to the county in which the public employer is located. One of the hallmarks of fairness is that the ultimate decision maker is unbiased and has no specific interest in the outcome of the case. Here, it appears rather clear that there is an attempt to reverse that process and add bias to the case.

(3) Beginning on line 21, page 5, this legislation purports to have the collective bargaining process open to the public with all documents made public records. There are certain areas in the law that have always been exempt from public view. Collective bargaining has always been one of those matters. It allows the parties to freely deal with internal matters that only the parties themselves should appropriately be dealing with. Having the press and others with political interests sitting in hearing and reporting such deeply personal matters as effects on police officers' and firefighters' families and other internal matters spread across the pages of the newspapers would obviously be destructive to the process.

(4) Beginning on line 23, page 7, this legislation purports to exclude certain issues from bargaining without the creation of any criteria. To mandate the removal of any benefit that is deemed to be "excessive" by the Department of Auditor General or any court seems to be constitutionally vague. It would be incredible to imagine that a determination as to excessive without any criteria, could mandate the loss of a valuable benefit.

(5) Line 15, of page 8 mandates the provision of the cost of the neutral arbitrator between both parties. Ordinarily this would seem to be a fair provision, which would be surprising since it could be construed as the only fair provision in this entire legislation. However, any experience with the Act 111 process would show that it is fundamentally unfair. The average size of a police department in Pennsylvania is less than five persons. In fact, many have even three or less. A typical daily fee of a neutral arbitrator without any expenses is over \$1,200. per day. Considering that the process itself would involve multiple days of hearings and executive sessions, it appears obvious that the purpose of this provision is an insidious method of making the cost of an Act 111 hearing prohibitive to those small departments that represent the bulk of those police and fire departments throughout the Commonwealth.

Those are just an example of some of the more egregious changes proposed in this legislation. I honestly looked hard to see if there was anything proposed that would be of benefit to the parties engaged in this process. As I stated at the outset, any law such as this, where one side sacrifices so much of the rights granted to other workers has to be of necessity fair and of benefit to both parties. I can honestly tell you there is nothing, absolutely nothing in this law that does anything other than destroy a process that has worked well and fairly for forty-six years. I respectfully request this Committee to look at the purpose behind the introduction of this legislation and to not sanction or allow such an insidious attack on those persons who have dedicated their lives and careers to the protection of all of us.

Thank you.