



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

**BEFORE THE
HOUSE AND SENATE
LOCAL GOVERNMENT COMMITTEES**

ON

**SENATE BILL 1111 (*PN 1539*)
AND
HB 1845 (*PN 3240*)**

PRESENTED BY

**ELAM HERR
ASSISTANT EXECUTIVE DIRECTOR**

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LANCASTER, PA**

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Chairperson Harper, Chairman Eichelberger, and members of the House and Senate Local Government Committees:

Good morning. My name is Elam 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 1,454 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 commend the chairs for holding this hearing to continue the dialogue about an issue that has such a significant impact on municipal finances. In addition, we thank the sponsors for their support of these critically important bills, SB 1111 (*PN 1539*) and HB 1845 (*PN 3240*), which would comprehensively reform Act 111 of 1968 to provide significant changes to this unfunded mandate. This act is a key factor for communities that become fiscally distressed and we must work to address it.

Before we get into the need to update this Vietnam era law, let me say that we have the utmost respect for, and commitment to, our public safety heroes in uniform. Also, please note that while Act 111 applies to police and fire, my comments today will focus on police since townships rely on volunteer fire companies for fire protection.

Act 111 of 1968 was enacted to establish a legal framework for the proceedings in public employer-public employee collective bargaining. Over the past 45 years this act has remained unchanged while driving up the cost of providing public safety service well in excess of inflation. Reform is needed to restore balance so that quality wages and benefits can be provided to police employees for their valuable service to our communities, but not at the expense of other services or financially stressing our taxpayers. We want to be able to supply our residents with quality police protection, but wages and benefits must be sustainable. Unless changes are made, we are concerned that more communities will become less attractive places to live as tax rates increase and other services are cut, while small communities are forced to eliminate their departments due to financial hardship.

Our Association has long supported reform of the arbitration process that would place local elected officials and the citizens that they represent in a more balanced position to negotiate collective bargaining agreements and avoid arbitration awards that provide benefits and wage increases that are greater than the taxpayer's ability and willingness to pay. Senate Bill 1111 and HB 1845 would do just this and we strongly support this legislation as written.

Labor costs can substantially drive up a municipality's expenses and are now frequently the largest budget item in townships. These costs are often the result of

arbitration awards over which the township has little, if any control or input – as the arbitration panel is currently not required to consider the municipality’s ability to pay for the arbitration award, how the award may impact a municipality’s bond rating, the impact from prior awards, or any other objective criteria.

This is a weakness in current law that was recognized by the recent Senate Resolution 323 of 2010 Report on Unfunded Mandates. Even if a township has the tax base to raise taxes to pay for the expanded terms of an award, that doesn’t mean the residents are able or willing to shoulder a doubling or tripling of their property taxes to provide for a substantial benefit. In addition, new or increased benefits that are bargained for or awarded in one bargaining cycle become the base for the next cycle.

Both bills would address these issues by requiring the arbitrators to hold evidentiary hearings at public meetings and to include findings of fact and conclusions of law on each issue presented by both parties, including a detailed analysis based on the evidence of the award’s cost and impact on the municipality’s finances and other services, as well as the municipality’s ability to pay the award costs. In addition, the panel would be required to factor the cost impacts from pre-existing terms and conditions of employment that are continued under a new award, as well as how the award may negatively affect a municipality’s continued stability. These provisions would be enormously beneficial to restoring fairness to this process and help maintain financial stability for municipalities.

To ensure that the awards are based on findings of fact and conclusions of law, these bills would allow for judicial review of arbitration awards in certain very limited circumstances, such as those where an award would require an unconstitutional act or where the board of arbitration exceeded its powers and duties. These provisions are also supported by the recent Senate Resolution 323 report and present a rational, and very limited, scope of review, which we can strongly support.

SB 1111 and HB 1845 would require both parties to equally share the costs of the arbitration process, as well as the costs of the neutral arbitrator. Today, these costs are currently borne almost exclusively by the local government. In fact, the Senate Resolution 323 report identified Act 111 as the second most burdensome unfunded mandate for local governments and recommended that both parties involved in arbitration equally share all costs of the arbitration process. This is only fair since it is the bargaining unit that is in a position to benefit from proceeding to arbitration and has little incentive to negotiate before the arbitration phase.

In addition, we support the provisions that would begin the arbitration process with a list of seven, as opposed to the current three neutral arbitrators, as well as to make the process begin with a coin toss for the first strike. We also are strongly supportive of language to require, if at all possible and feasible, that one of the arbitrators on the list, be from the municipality in arbitration. These changes simply make sense and would create a more balanced process.

Another key provision in both bills is the exclusion of post-retirement health benefits and pension benefits from arbitration awards, unless statutorily required or authorized under federal or state law. Postretirement benefits are extremely expensive to provide and must be funded for decades, not just until the next collective bargaining cycle. Despite the most prudent efforts of the municipality, funding for postretirement benefits are subject to poor returns during economic downturns and actuarial assumptions that may or may not come true, leaving the community scrambling to adequately fund benefits that were awarded many years before, in addition to wage increases and new benefits awarded or bargained for in the most current bargaining cycle.

In addition, the Police Pension Act dictates that municipalities must provide very specific, and generous, pension benefits to our police. Subjecting pension benefits to arbitration means that any awards will be on top of these mandated benefits that communities must fund regardless of the outcome of negotiations.

Another beneficial provision requires both parties to bargain in good faith and allows either party to take an unfair labor practice claim to the Pennsylvania Labor Relations Board.

Finally, we support the changes to allow for the extended timeframes for the collective bargaining and arbitration process. Beginning this process earlier will ensure the township has time to budget for the provisions of the new contract or award.

Again, we applaud the chairs and sponsors of this legislation for their efforts to move the discussion forward on these critical issues. We need to make sure that we continue to provide quality pay and benefits to our public safety personnel, while ensuring that we have the means to provide for these benefits, both now and in the future, without causing fiscal distress to our communities.

You have heard from local officials today on the problems and concerns with the act. For your benefit, we have attached an example of one township's experiences with Act 111 as it exists today.

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

Example: Lower Paxton Township, Dauphin County

Lower Paxton Township has more than 47,000 residents, making it, by population, the 17th largest local government in the Commonwealth. The township's municipal government provides basic services, including a Police Department with 57 police officers and 8 civilian employees. The township's 2012 General Fund budget for the Police Department easily exceeds \$7 million.

In Lower Paxton Township, police officers are, by far, the highest paid group of bargaining unit employees. In 2011, the average W-2 compensation for the 3 highest paid Police Sergeants was \$88,484 and the same average for the 3 highest paid Corporals was \$85,428. These high rates of compensation are accompanied by a full and complete package of leave benefits and insurance benefits.

In Lower Paxton Township, arbitration awards have provided police officers with rich compensation and benefits that are not typically provided to other municipal employees. The most significant of these arbitrator-awarded benefits are:

- medical benefits for retirees, as enjoyed by active members of the police department, for either a 60-month period for husband and wife or a 108-month officer-only. The Township's GASB 45 OPEB unfunded actuarial accrued liability as of 1/1/11 for this arbitrator awarded benefit was \$3,030,166;
- 30 days sick leave per calendar year;
- The accumulation of sick leave up to a maximum of 160 days. Upon retirement, 120 days of accumulated sick leave shall be paid at the employee's normal rate of pay;
- The accumulation of 25% of each year's vacation time with no maximum limit. Upon termination, police officers are compensated for all accumulated and unused vacation days. The last 3 officers that retired from Lower Paxton Township's Department received lump-sum sick leave and vacation payments that totaled \$62,077, \$67,892, and \$76,364. These payments were made between 7/11 and 1/12.
- Longevity payments at 1/2% of base salary per year of service, to a maximum total payment of 10% of base salary at 20 years of service.

As an example, in recent collective bargaining with its police officers, Lower Paxton Township has received demands for:

- A 5% per year across the board wage increase for 2009, 2010, and 2011;
- An increase the Longevity cap to 20% from 10% of base salary;
- Extension of fully paid post-retirement medical coverage for husband and wife to ten (10) years, and officer only to 15 years; and
- Various pension proposals, including:
 - Establishment of a Deferred Retirement Option Program (DROP);
 - Elimination of all member pension contributions for the life of the collective bargaining agreement;
 - An increase in the Service Increment to \$500 per month in accordance with Act 89; and

- Add non-intervening military service buyback as permitted under Act 600.

In addition, Lower Paxton Township has received proposals from its police bargaining unit for establishment of a Deferred Retirement Option Program (DROP) and elimination of all member pension contributions for the life of the collective bargaining agreement, neither of which are statutorily required benefits.

For Lower Paxton Township's 2007 arbitration award, the neutral arbitrator cost of \$9,000 was the sole responsibility of the Township. This amount is in addition to the Township's costs for preparation for and representation in arbitration, which totaled \$22,666.