



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

**BEFORE THE
SENATE VETERANS AFFAIRS AND
EMERGENCY PREPAREDNESS COMMITTEE**

ON

**SB 1019 (PN 1411)
REWRITE OF TITLE 35**

PRESENTED BY

**ELAM M. HERR
ASSISTANT EXECUTIVE DIRECTOR**

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HARRISBURG, PA**

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Chairman Vulakovich and members of the Senate Veterans Affairs and Emergency Preparedness Committee:

Good morning. My name is Elam M. Herr, assistant executive director for the Pennsylvania State Association of Township Supervisors. We are a non-profit and non-partisan association appearing before you today on behalf of the 1,454 townships in Pennsylvania that we represent. Thank you for this opportunity to participate today on this critical issue.

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 approaching 60,000 residents.

We have been actively working with the Pennsylvania Emergency Management Agency, oversight committees in both chambers, and the stakeholders since 2008 on the rewrite of Title 35 (*Health and Safety*) of the Pennsylvania Consolidated Statutes. This is an ongoing process and we have provided comments to PEMA over the years that were incorporated into various legislative proposals. SB 1019 (*PN 1411*) is the most recent draft of this rewrite. We appreciate the work PEMA has done in addressing the majority of our issues and concerns. There are, however, a few issues that we would like to bring to your attention.

Local government is a partner with the state in providing critical services to our mutual residents, especially all facets of emergency management and response. We understand that all levels of government have been pushed in recent years to do more and more with ever-shrinking resources, both financial and staff. Funding is a critical component since any new unfunded mandate will force local officials to reluctantly turn to their property taxpayers – the only available revenue-raising option the General Assembly has authorized – and require these taxpayers to pay more.

The bill would authorize municipalities to use the Intergovernmental Cooperation Act to jointly establish an emergency management program. As we have testified in the past, a one-size-fits-all approach does not work and we appreciate that this is a “may” provision and not a mandate as in previous proposals. We strongly support the local option to cooperate and we see examples of municipalities choosing to work together to enhance their emergency management planning and response functions across the Commonwealth.

The bill would authorize a governing body to extend a disaster emergency declaration from 7 days to 30 days. We support this change as we understand a disaster emergency can extend past the current allowable timeframe and we appreciate the flexibility this provision would give township officials.

The provision on page 51, line 17, would continue to allow a local elected official to be appointed as the emergency management coordinator. We support this language and

appreciate the local choice that it allows. Communities should be able to appoint the person that they deem best to fill this role regardless of whether they are also an elected official. With this being said, we have no issue with PEMA having oversight of the appointment.

Following are specific comments and concerns on SB 1019 (*PN 1411*):

Throughout SB 1019, the terms “local government,” “local governing body,” and “local government unit” are used, but are not defined. To avoid confusion, we recommend that one term be used and if needed, be defined. We should point out that “local government” is defined in Title 53 (*Municipal Corporations*) of the Pennsylvania Consolidated Statutes under the intergovernmental cooperation section as “a county, city of the second class, second class A and third class, borough, incorporated town, township, school district or any other similar general-purpose unit of government created by the General Assembly after July 12, 1972.” Although we do not think the intent is to include all “political subdivisions” when these terms are used, we suggest the use of the terms “county and municipality” when appropriate since municipality is defined on page 11, line 15. The term “municipality” is defined in SB 1019 as a “city, borough, incorporated town or township.” We again ask that one term be used throughout SB 1019 to eliminate any future confusion.

On page 27, line 29, the bill gives PEMA the authority to withhold federal or state funds from a political subdivision that does not have in effect a current emergency operations plan and hazard mitigation plan. Is this only in a federal declared disaster or also state and local disasters? What is “current?” Does PEMA have sole discretion over the withholding of funds? This provision is troubling. We understand withholding hazard mitigation funding as a “carrot” approach, but beyond that, withholding public assistance funds appears to be punitive and provides PEMA with too much discretion. We also take significant issue with disaster relief funds potentially being withheld from a community without a “current” plan as defined by the agency. Taking away response or recovery funds goes too far. Instead, PEMA should continue to provide training tools to help with the planning process, expand access to GIS technology to assist with mapping, and use available funding to obtain needed data for planning purposes. In any case, this provision must be clarified.

Further and because all disasters are local, we believe that it is essential that funding be identified for any new obligations required of counties and municipalities to prepare, respond, recover, and mitigate and have it dedicated for any such expenses associated with the rewrite. The concern is the unfunded mandate that will be forced on municipalities and counties if statutory responsibilities are created with no state or federal funding to pay for or even offset these additional costs that local officials must shoulder. While the rewrite must emphasize coordination between the various levels of government, in the end it should not significantly increase local government’s mandated expenses and responsibilities unless new funding is provided.

Appointment of a coordinator is listed on page 51, line 5 as being done by the chief elected officer. We content that this appointment should be made “by official action of the governing body or the chief elected executive officer.” As written, it is given solely to the chief elected executive officer and in the case of townships it needs to be an action of the governing body.

Under existing law and located on page 54, line 6, each municipality is required to have a separate fully stocked and staffed operations center. We are not sure what this means. Must each municipality have a separate fully stocked and staffed operations center even if they have joint center or plan with another municipality?

On page 59, line 18, “participation in continuity of municipal government and continuity of municipal operations planning” is required. This section should be further defined to explain what this means and its component requirements. For instance, is this a completely new plan requirement or is this part of existing plans? To alleviate confusion, this section should be expanded.

Another area of concern for our members is the coordination of planning. Existing law requires not only municipalities to plan for an emergency, but also school districts and nonprofits. It is imperative that these entities prepare plans that are in compliance with local plans so that when an emergency happens, response is coordinated. Specifically, the language on page 60, line 6, is similar to what the counties are required to do on page 57, line 23. We recommend that the county and municipality work together to review plans from the same entities. We are not implying that the plan reviews should not be done, we are simply bringing up the fact that it could present more issues if it is not a coordinated effort.

On page 80, line 3: If schools are to plan for emergencies (*refer to page 60, line 6, and page 79, line 26, and page 80, line 18*) and this section states that school buses are to be made available to the municipality, county, etc., we are concerned that this could potentially create a problem with coordinated plans. We realize that plans are to be coordinated under page 80, line 18, but it does not say how the school children are to be covered. It is imperative that educational entities prepare plans that comply with municipal and county plans so that when an emergency happens, response is coordinated.

Components of our emergency management system that should be incorporated into the rewrite of Title 35, such as additional training opportunities for the emergency management community, including municipal employees frequently activated in response to a disaster, such as public works, which provide traffic control when police are not available, as well as response for local storms. Training should focus on the proven all-hazard planning platform to ensure coordination of all responders.

We also need to make sure that we have interoperable communications, as it is absolutely critical that our first responders and EMCs at the municipal and county level can communicate with each other in a disaster, as well as to any state or federal responders.

In closing, emergency management and response has long been recognized as a critical responsibility of government. As such, the state needs to fulfill its role in providing funding to pay for the mandates it places on local government. We continue to support PEMA's efforts to rewrite Title 35 and we are committed to continue working with PEMA, this committee, and all stakeholders in this endeavor.

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

The following is a list of our technical comments:

Page 4, Line 7: In the definition of "Commonwealth Response Coordination Center," the term "local political subdivision" is used. "LPS" is not defined and only used here. To avoid confusion, we recommend that the term "political subdivision" be used here which is later defined as a county, city, borough, incorporated town or township on page 13, line 10.

Page 10, line 25: We recommend that the definition be rewritten as follows: "... the condition declared by ~~a local~~ the governing body or chief elected executive officer of the county or municipality when, in ..."

Page 22, lines 16 and 24, and page 23, line 20: The term, "political subdivision authority" is used. We are unsure what this term means and further should point out that this term is not defined. Are we correct in our assumption that this term either means the "political subdivision" or a "municipal authority" created by the political subdivision? We ask that this term is to be used that it be defined to avoid further confusion.

Page 34, line 22: The term "local government officials" is used. This term is not defined. On page 35, line 13, "local officials" is used. This is confusing and we ask that one term be used and that it be defined.

Page 35, line 8: The term "local governments" should read "municipal governments."

Page 51, line 27: We recommend that the phrase "an appointing authority" be amended to read "the governing body of the municipality ..."

Page 59, line 11: First, is this a repeat of page 54, line 6? And if not, what is the difference between the two sections? We recommend that this section be deleted if it is in fact duplicative or further defined if it is not. As currently written is creates confusion.

Page 80, line 3: "Local" should be changed to "municipal."

Under the penalties section beginning on page 89, specifically line 28, page 90 line 1, and page 90 line 3 the legislation is unclear and we do not know what this means.

