

**Testimony of State Representative Mark Longietti (D-7<sup>th</sup> District)**

**House Bill 2133 – Bonding of Roadways for Over-Weight-Limit Vehicles**

**House Transportation Committee Hearing – September 26, 2008**

Mr. Chairman, Majority Leader DeWeese and Members of the House Transportation Committee. My name is Mark Longietti and I serve as the State Representative for the 7<sup>th</sup> District of Pennsylvania which comprises approximately one-half of Mercer County, including the Shenango Valley. I am pleased to testify on behalf of House Bill 2133 which is legislation that I introduced to update the law concerning the posting of road bonds for certain local roads in Pennsylvania. I believe that this legislation is both timely and critically important to our local municipalities.

I do not have to tell this committee that that here in Pennsylvania, and across our nation, we are facing a crossroads regarding our infrastructure. Just as our state government faces that challenge concerning our state-maintained roadways, our local governments face the same challenge concerning the local roadways for which they bear the burden to maintain. We know that local governments have told state officials, for some time now, that the share of liquid fuels revenue dedicated to local municipalities is inadequate, and less than what it used to be even on a percentage basis, to properly maintain the roads they are responsible to maintain. This situation is exacerbated by the fact that the more recent spikes in gasoline costs have led to a smaller pot of liquid fuels revenue for both state and local governments as people drive less and operate more fuel efficient vehicles, because they simply cannot afford the alternative.

Although the liquid fuels revenue matter is an issue for another day, it does illustrate the tremendous pressure that our local governments face and the critical need for the legislation that I have introduced. Most people agree that the road users, and those that cause the wear and tear on our roadways, are the ones that should bear the cost of repairing and maintaining our roadways. And although the liquid fuel tax is a way to distribute that cost to the user, it does not appropriately allocate the risk of road damage in the case of over-weight-limit vehicles, which can cause significant damage to our local roads. We can agree that local residents should not bear the burden of fixing roads that are damaged by over-weight-limit vehicles, and instead that the companies and individuals who operate those vehicles should be the ones to bear that cost, as a price of doing business.

Let's examine the problem. The vehicle code in Pennsylvania permits local municipalities to post a 10-ton weight limit on local roads, following a proper engineering and traffic study calling for the same. However, local municipalities may not restrict or prohibit usage by over-weight-limit vehicles that have a need to travel these roads, they may only establish a process by which the operators of these vehicles apply for and receive an over-weight-limit permit. In regard to this process and permit, the vehicle code allows municipalities to require the posting of a bond by the person or company using the roadway to provide security in case the road is damaged by the over-weight-limit vehicle and needs repair. The maximum amount of the bond that may be required is established in regulations promulgated by the Pennsylvania Department of Transportation. Herein lies the problem. The maximum road bond amount was set by PennDOT back in 1978 and has not been changed or updated in 30 years. In most

cases, the maximum road bond amount is \$6,000 per lane mile, under the current regulations.

It is beyond time for PennDOT to revise these regulations. According to the Pennsylvania Asphalt Pavement Association, the cost of materials alone to pave one-lane mile, 12 feet wide and 1 ½ inch thick is \$49,104. That is a far cry from \$6,000 per lane mile. Moreover, the costs of roadway construction have been accelerating rapidly over the last few years, especially as fuel and oil costs have risen dramatically. According to the American Road & Transportation Builders Association, the cost of highway and street construction materials were up 18.9% in June, 2008 as compared to June, 2007. Further, in the five years between 2003 and 2008, the price of highway and street materials rose 70%. Local municipalities simply cannot bear these costs when it comes to over-weight-limit vehicles damaging their roadways.

Our local municipalities are in a very unsecure position. The maximum bond amounts that they are able to require would cover only a small fraction of the cost to repair roads damaged by over-weight-limit vehicles. Now, there are many individuals and companies that are good stewards of the roadways that they utilize. They are quick to contact municipalities when they damage the roads and they often provide a fair and workable solution. But the law is always in place to protect society from the abuser. In my district, in Delaware Township, Mercer County, we have seen a good deal of traffic from a particular oil and gas drilling company using over-weight-limit vehicles. We know that this type of drilling activity is very much on the rise in Pennsylvania. Unfortunately, this company is the type of company where adequate bonding amounts are necessary. In the view of the Township Supervisors, the company has caused substantial damage

to the roadways, which must be repaired, again and again. Instead of taking responsibility for that damage the company denies its culpability and has arrogantly invited the Township to call its bonds. Their reputation for this type of conduct has been repeated in several municipalities in western Pennsylvania. Yet the Township is in the unenviable situation of knowing that the bond amounts are woefully inadequate and their burden of proving, in court, that the company caused the damage would be expensive and challenging, given the deep pockets of the company. It really is not even worthwhile to call the bonds, given the little amount that would be realized, and the company knows and takes advantage of this fact.

Hence my legislation. The legislation that I introduced would require PennDOT to revise the bonding amounts by January 1, 2009 and every three years thereafter. This is a reasonable approach given that the amounts have not been adjusted in 30 years and that road construction costs can increase significantly in just 3 years, as we have seen in current times. In addition, my legislation would require PennDOT to establish a rebuttable presumption in favor of the local municipality and against the over-weight-limit permittee for damage sustained to a posted road used by the permittee. Logic tells us that it is the over-weight-limit vehicle that caused the damage to roadways sustained during their period of usage. Local municipalities should receive the benefit of that presumption and the well-heeled companies that take advantage of posted roads should have the burden to prove otherwise.

In conclusion, this is a matter that affects all of our local municipalities. Our local taxpayers are already burdened enough. It is time to update the law so that our municipalities have adequate security when it comes to local roads and so that our

citizens are not forced to pay to fix roads damaged by companies operating over-weight-limit vehicles.

Thank you Mr. Chairman, Mr. Majority Leader and members of the House Transportation Committee for receiving my testimony.