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Pennsylvania Senate Community, Economic and Recreational Development
Pennsylvania House Urban Affairs
Pennsylvania Senate Local Government
Pennsylvania House Urban Affairs

Before

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**2048 Derry Street
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Pennsylvania Professional Fire Fighters Association



Good afternoon. My name is Art Martynuska, and I am proud to serve as President of the Pennsylvania Professional Fire Fighters Association, which represents 10,000 active and retired professional fire fighters and emergency responders throughout the Commonwealth of Pennsylvania. The dedicated men and women of the PPFPA provide critical services on a daily basis to over 32 percent of Pennsylvania's resident. I am equally proud to have served 20 years as Firefighter in the City of Johnstown, from which I retired as an Assistant Fire Chief in 2010.

Like my colleagues on this panel, I would also like to thank the Joint Committee for convening these very important hearings on a matter that I personally consider the single most important issue facing firefighters in our Commonwealth – the need to reform Act 47 to restore some semblance of justice and fairness in the treatment of our first responders.

Today I will attempt to provide the Committee with a real world sense of how the Act 47 process works to the distinct disadvantage of first responders and the communities that we serve. I can speak with great confidence on this issue, because I have lived and worked under its restrictions as Johnstown firefighter. Next August, Johnstown will mark its 20th year as a “distressed municipality” under Act 47. Unfortunately, that extraordinarily long “recovery” period is hardly unique. In fact, one of the better measures of the failure of the current Act 47 system is that distressed communities never recover. In fact, most of them don't want to, because they have learned that it is easier to operate as a welfare ward of the state.

During my 20 years working in an Act 47 community and assisting fellow firefighters in similar communities, I have seen firsthand how the abuse of the Act 47 process has hurt good men and women who risk their very lives to protect citizens and businesses in Act 47 communities. I have seen firsthand how plan coordinators and municipal managers pick and choose which recovery plan provisions to follow and which to ignore, often to the detriment of my members. I have experienced the heat of the already dangerous job of firefighting made even more dangerous as a result of recovery plan-mandated staffing cuts that have nothing to do with citizen or fire fighter safety and everything to do with dollar and cents.

In my opinion, and based on my own experience as well as the experiences of my members, I can state with certainty that the current Act 47 recovery process is broken. It is bankrupt. The system deprives firefighters and other municipal employees of the most basic dignity in their workplace. What's morbidly ironic about this situation is that it has done virtually nothing to improve the lot of communities in the program. The system is long overdue to reform, and on behalf of 10,000 emergency responders, I implore the legislature to take the steps advocated today by myself and my colleagues.

During his testimony, Mark Koch from the FOP testified that Act 47 has been applied in a way that virtually eliminates the rights of employees in Act 47 communities. I wholeheartedly agree with that statement, and I would like to provide a fairly typical example to make that point.

The collective bargaining process in an Act 47 community usually works like this. The firefighters in the community will have a collective bargaining agreement that has been negotiated and modified by the parties every 3 or 4 years for decades. That document represents years of sacrifices

made by prior generations of firefighters and municipal managers. It is an almost sacred document, a promise made between labor and management as partners.

For firefighters, oftentimes that contract will contain provisions that require a certain number of firefighters be assigned to a fire truck or on a given shift, specifically to provide for the safe response to emergencies. Those safe staffing provisions themselves are the product of sacrifice, in that the firefighters in a given community may have forgone a raise, or taken lesser benefits, in order to secure relatively safe working conditions. This is not unusual. Firefighters routinely make economic sacrifices because we understand how important it is to have enough firefighters arrive at a fire scene as soon as possible. It quite literally can be the difference between life and death.

In an Act 47 community, however, when it comes time to renegotiate the collective bargaining agreement, the decades of prior sacrifices will mean exactly nothing, because the entire agreement will be trumped by anything written into a recovery plan that is different. Over the years, we have seen management lawyers and plan coordinators become more and more aggressive in writing recovery plan provisions that are specifically intended to gut our collective bargaining agreements without regard to public safety and many times, as in the City of Johnstown against the advice of their very own fire safety consultants recommendations..

It has gotten so bad that we now see negotiations in Act 47 communities where the employer walks into negotiations, drops a completely new contract on the table – one that had zero input from the firefighters – and says “here’s your new contract.” It’s not even take it or leave it. It’s “take it or take it”, because if we fail to agree to give away each and every provision in our current agreement, the employer will simply force the matter to arbitration, and the arbitrator will be required to award the exact recovery plan provisions, whether they are warranted or not.

If you think I am exaggerating for the benefit of this proceeding you are mistaken. This is exactly how it works. From our perspective, from the perspective of people who are so committed to Act 47 communities that we put our lives on the line for them, the entire Act 47 process is rigged at the outset, and there is virtually nothing we can do about it.

Tell me, where is the fairness in that? Where is the dignity? Don’t our firefighters, our police officers, our social workers, who keep our distressed communities afloat deserve better? I think the answer is obvious.

Time and time again my colleagues in Act 47 communities across the commonwealth have offered cost saving and revenue enhancing ideas to their municipalities. The incentives were not geared to increasing wages or benefits. They were aimed at maintaining critical staffing levels. But our employers, under the tutelage of Act 47 Plan Coordinators who themselves are under the stewardship of DCED, have consistently rejected these ideas, simply because it’s easier to cut than to think outside the box.

As I mentioned earlier, I have lived within this Kafkaesque thing called Act 47 for almost my entire fire fighting career. I have seen firsthand mismanagement and fiduciary inadequacy. If the supposed checks and balances of Act 47 had been in place these would have never happened. In Johnstown alone, the bad decisions have surely been at the expense of public safety and services. To cite a few examples:

- Sale of the positive revenue generating sewage treatment plant for less than fifty cents on the dollar.
- Remodel, re-remodel and then demolish and rebuild the municipal stadium.
- Snubbing employee driven offer(s) to expand services that could possibly lead to municipal consolidation.
- Snubbing employee generated health care proposals that would have saved the municipality over \$400,000 annually for just the fire department.
- Ignoring the early retiree reinsurance program that was offered by the federal government.

This last missed opportunity is probably more egregious than some of the other. The same day that I gave this information to the Johnstown's City Manager, I also gave it the human resources department for Cambria County. To date, Cambria County has received over \$190,000 dollars in federal funds, with additional monies still to come. Johnstown has received nothing, because they never even asked.

These are but just a few examples, from just my hometown. In the coming weeks we will be happy to provide the joint committee a dossier of information detailing revenue incentives that were offered by employees in Act 47 communities and never taken advantage of. Perhaps that will drive home why we're so frustrated.

This lack of basic fairness, this lack of any balance of power between labor and management in Act 47 communities, perhaps explains the rancor and the discord that we have seen in communities like Scranton, where employees have lost all faith in the system and have chosen to take their battles to court in seemingly endless litigation. To give a firefighter's perspective, it is basic fire science that the heat and gases in a room on fire cannot build unchecked forever – if not released, they will flashover, or essentially explode into fire.

Bargaining rights release pressure; they release heat, from the relationship between labor and management, especially in difficult times when we face difficult choices. In fact, that's when we need bargaining most. When there is no way to release heat in a labor-management relationship that heat will find a way to flashover into litigation, hard feelings and worse. We saw that in the 1960s, which led directly to the amendment of our Constitution and the passage of Act 111, and we are seeing some of that now in Act 47 communities, for the simple and obvious reason that a system that places absolute authority in one party's hands will ultimately collapse.

I am here this afternoon, and my brothers and sisters from across the Commonwealth are here this afternoon, because Pennsylvania cannot afford to let its struggling municipalities collapse.

Like our brother and sisters in the law enforcement community, we agree that the challenges in reforming Act 47 are difficult and the areas of reform are many. And like our colleagues, we also agree that the place to start immediately is to restore meaningful bargaining rights for employees in Act 47 communities. Not necessarily the same rights that are enjoyed in wealthier communities, we understand that. But there simply has to be some balance in the process, for reasons related not only to the need for basic fairness and dignity for men and women who risk and lose their lives for this Commonwealth, but also because 25 years of history under Act 47 tells us that the current process simply does not work.

Because of this, and on behalf of 10,000 men and women who are so committed to the success of distressed municipalities that we have pledged our very lives to protect them, I respectfully request that the General Assembly amend Act 47 to restore meaningful collective bargaining rights for firefighters and other public employees, so that we can partner with our management colleagues to develop mutually acceptable ways to help our struggling communities thrive and prosper.

I would hope that I never have to hear another city mayor saying, as one in Johnstown did, "We're staying distressed to keep the bargaining units in check." That cannot be the answer for our struggling communities. We all deserve better, and I know we can do better than that.

Thank you again for this opportunity to address the Joint Committee.