



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

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

ON

HOUSE BILL 2562 (PN 3930)

PRESENTED BY

**ELAM M. HERR
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LEWISTOWN, PA**

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Chairman Barrar and members of the House 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 1,455 townships in Pennsylvania that we represent. Thank you for this opportunity to participate today on this important 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. **House Bill 2562 (PN 3930)** is the most recent version of this rewrite. We offered comments to PEMA on previous drafts and we believe that most of our major concerns have been addressed in HB 2562.

However, we continue to have concerns with this version. While many are technical, the overarching concern is the unfunded mandate that it will create on municipalities and counties by creating statutory responsibilities with no state or federal funding to pay for or even offset these costs that political subdivisions must shoulder. The legislation provides an emphasis on coordination between the various levels of government, which is a good objective, but in the end, it significantly increases local government's mandated expenses and responsibilities, while providing no new funding.

We strongly believe that local government is a partner with the state in providing critical services to our mutual residents, including 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. Local governments have been pushed until there is nothing left to trim and any new unfunded mandates will force local officials to reluctantly turn to their property taxpayers — the only available revenue-raising option the General Assembly has authorized — and require them to give a little more.

Because all disaster response is local, we believe that it is essential that funding be identified and dedicated to, at a minimum, offset the expenses associated with this rewrite. We will identify several specific examples below.

Another overarching theme is the hierarchy of emergency management. The accepted hierarchy has been that the federal government oversees and coordinates emergency management with the states. The state, in turn, oversees and coordinates

emergency response with the counties. The counties oversee and coordinate emergency management and response with the municipalities.

Much of this legislation suggests that the state oversee and coordinate response with not only the county, but also municipal government. However, this becomes cumbersome and counterproductive. Instead, we believe that PEMA should set county standards and the county should set municipal standards. While we appreciate standardized language, one size doesn't fit all. Instead, we should stick to the long held and functional hierarchy and span of control of local up to county up to state.

Following are specific comments and concerns on House Bill 2562 (PN 3930):

Section 7102, page 9, lines 4 and 11: the term "local governing" and "local government" are not defined. To avoid confusion, we recommend that the term used in these sections be "political subdivisions," which is defined on page 12.

Section 7305.1(c), page 26, line 14: This subsection authorizes PEMA 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. What funds does this provision include? And why does the legislation give PEMA the discretion to determine what is "current" in Section 7503(a), lines 23-24? This provision is troubling. We may understand withholding hazard mitigation funding as a "carrot" approach, but beyond that, withholding all funds appears to be punitive and provides PEMA with too much discretion in this case. If this provision allows all Commonwealth funds to be withheld, we must oppose the legislation. In any case, this provision must be clarified.

Section 7312, page 29, line 15: We question why "Keystone Emergency Management Association" is given a seat on the Pennsylvania Emergency Management Council when they could receive a seat in the following subsection? In addition, this position is a county office and would be covered under the CCAP seat.

Section 7313, page 32, line 13, etc.: This section states that PEMA may include provisions for "local emergency management responsibilities" and "to assist local government officials" in developing their systems of emergency management and preparedness, but does not provide funding for local governments to carry out these responsibilities.

For example, page 33, line 27 gives PEMA the authority to create accreditation programs for county and local emergency management programs, as well as certification programs and qualification standards for local emergency management coordinators. However, there is no discussion of funding sources. Our members have expressed concern over the last decade with increased training requirements from FEMA and this appears to be a similar direction of more obligations and responsibility with no funding.

On page 36, line 23, the language would delete specific reference to grant programs for political subdivisions and replaces it with vague language about grants

subject to availability. Is this eliminating a current funding source for emergency preparedness? And who would be the recipients of these grants since the reference to "political subdivision" would be deleted?

On page 38, line 11, a subsection would be deleted that requires PEMA to stockpile equipment, materials, and supplies for emergency response to supplement those owned by the Commonwealth, county, and local departments and agencies and would eliminate two regional supply warehouses. We question why these provisions are proposed for elimination and if this duty is being transferred to the regional task forces? We want to ensure that necessary equipment and materials are accessible to all in case of a disaster.

On page 39, line 19, PEMA would be directed to maintain an integrated communications capability designed to allow all public safety answering points, county dispatch center, and first responders to communicate with the State emergency operations center. Communication is essential in a disaster and it is critical that first responders be able to communicate with each other. However, funding is necessary to ensure that this provision is implemented.

Section 7501, page 44, line 21: This section would require municipalities and counties to establish an emergency management program consistent with the agency's program within two years of the effective date of the section. First, we do not see any identified funding to pay for the costs of this mandate. In addition, this time frame is limited and does not take into account the time that PEMA may need to develop the criteria for the updated plans. This could conceivably take two years by itself, leaving municipalities with little, if any, time to properly comply with this unfunded mandate.

Section 7502, page 47, line 24: This section provides another example of an unfunded mandate. This section stipulates that PEMA will determine the requirements of education and continuing education for the county and local emergency management coordinators without any identified funding. We understand and agree that training is needed, but this provision gives us pause because our members have experienced a great deal of confusion in understanding what training is required due to federal requirements and a lack of clarity from PEMA and the county EMCs. For example, some have confused "township supervisor" in the training charts with an emergency response supervisor. While we agree that PEMA should establish standards in conjunction with federal requirements, we need to limit the cost to a political subdivision as well as the time constraints on our volunteer local officials.

Section 7502, page 47, line 23 refers to a "chief elected executive officer of a municipality" and this terminology is used throughout this section. Not every municipality or county has such a position. We believe just referring to "governing body" or "chairperson" would help to clarify this issue.

Section 7502, page 49, line 6 and line 26: This language would change the current process whereby the local emergency management coordinators are nominated by the

governing body of the municipality, which notifies the county, which notifies the governor, who appoints the local EMCs. This provision simplifies this process and the language beginning on line 26 would create a clear process for removing an unacceptable local EMC. However, we urge the term "chief elected executive officer of a municipality" to be replaced with "governing body of a municipality." Otherwise, we support this language.

Section 7502, page 49, line 16 explicitly allows a local government official to be appointed as an emergency management coordinator. It would be help clarify this provision to say "local elected government official." Township supervisors do serve in this role and it would be beneficial to allow those able and willing to serve to continue to do so.

Section 7502, page 51, line 9: This section would make it explicitly clear that the expense for training the coordinators is the responsibility of the political subdivision appointing the coordinator. While many municipalities currently shoulder these costs, this responsibility would be explicit in HB 2562.

Section 7503, page 54, line 20: This appears to place responsibility on the municipality to ensure the continuity of county operations. This appears to be a county and not a municipal role.

Section 7503(c), page 56, line 3: What is meant by the statement "a municipality required to establish a local emergency management program?" At the least, "is" appears to be missing from page 56, line 1. This statement seems to imply that some may not have to establish such a program.

Also, this section gives additional responsibilities for each local emergency management program, on top of what is in current law and much appears to be burdensome, without clarification. What happens if a municipality can only accomplish some of these objectives? Do they lose Commonwealth funding as stated earlier? For example, what is required of a municipal hazard vulnerability analysis?

Section 7503(c), page 57, line 2: We are not sure what this section means. Is the intent for a municipality to have a municipal operations center established and operational at all times? We don't believe that is the intent, but believe that this provisions needs clarification.

Section 7503(c), page 57, line 9: What is meant by of having the municipal emergency management program "participate in continuity of municipal government?" Should a word be added here, perhaps "exercises" after "municipal government?"

Section 7503(c), page 57, line 25: This section states that the municipality shall "review and accept" the plans and programs developed by school districts and others. What happens if these plans do not meet with the local plan, must they still be accepted? Who is going to do this, the local EMC or the governing body of the municipality? Is this

review just to ensure that these plans are coordinated with the local emergency management plan or must our members become experts at the legal requirements for these other plans? The annual report is a new requirement as well, and appears to be another burden on the EMC.

Section 7511, page 59, line 13: This section states that political subdivisions may make appropriations to carry out the activities of this proposal, but says nothing of state funding. If a political subdivision doesn't have the funds to implement its responsibilities under the bill, how is the proposal to be carried out? Remember the agency has the right to withhold funds! And if the state is not providing funds, what funds are we discussing in this provision?

Section 7523, page 70, line 29: This provision places the cost of deployment of an urban search and rescue task force or its subgroup on the deploying entity requesting the activation or deployment. A fee schedule should be developed by PEMMA for reasonable reimbursement of these expenses, as well as a procedure for doing so. Otherwise, these expenses could be significant depending on the benefits provided by the individual employers and the entity required to reimburse could be issuing checks to dozens of different employers. Again, no funding is provided.

Section 7706, page 82, line 17: This provision stipulates that for Worker's Compensation purposes, there is an irrefutable presumption that the wages paid are at least equal to the statewide average weekly wage. This assumes that the volunteer is employed and will lose wages. What if they are retired or unemployed? While we strongly support workers' compensation coverage for volunteers, this would be an added expense to the municipality.

Section 7901.1, page 87, line 28: Is this section shifting additional responsibilities from the Pennsylvania Department of Health onto local and county emergency management programs?

We provide these comments so that clarification can be made and that we can have a discussion about the funding issue and avoid creating unfunded mandates. We continue to support PEMMA's efforts to rewrite Title 35 and would like to continue working with PEMMA, the committee, and all stakeholders in this endeavor.

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.

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