

November 21, 2013

**Testimony of Art Martynuska, President,
Pennsylvania Professional Fire Fighters Association, IAFF, AFL-CIO**

Good morning. 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. I am equally proud to have served 20 years as a 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 this Joint Committee for convening this hearing on a matter of considerable importance for Pennsylvania's career and volunteer firefighters, their families and their survivors – maintaining fair and appropriate legal protections for firefighters who have contracted cancer in the course of their work protecting Pennsylvania's citizens.

Just over two years ago, in July 2011, Pennsylvania enacted a much-needed legislation to protect its hometown heroes, in doing so joining the majority of states that already acknowledged cancer as an occupational disease for firefighters. Of course, firefighters and our families had known this for many years, as we routinely saw our brothers and sisters struck down in their primes, or unable to enjoy their well-earned retirements, because of this terrible disease. We also followed the science, as study after study documented the now-indisputable link between firefighting and cancer.

Despite the mounting evidence, for many years Pennsylvania maintained an antiquated system that basically required a sick firefighter to prove which fire during their lengthy careers was the one that caused them to become sick. Imagine being attacked by a swarm of bees then being told you had to identify the one that stung you in order to receive treatment. It was a ridiculous and unfair process. It needed change.

Almost exactly three years ago, on November 17, 2010, the General Assembly provided that change, by passing a firefighter cancer presumption bill that brought Pennsylvania into the 21st century on the issue of firefighters and job-related cancers. That bill, HB 1231, passed the General Assembly by a staggering combined margin of 241-4. It was the product of years of work and input by all stakeholders. Yet, in an extraordinary act of cowardice, former Gov. Rendell vetoed HB 1231 on the last day of that legislative session, when override was not even possible.

Despite this defeat, in January 2011, labor, management and insurance representatives worked together with leaders in the General Assembly to revive the former HB 1231 and provide a fair and reasonable cancer-presumption law for firefighters. The new bill, HB 797, was more conservative than HB 1231, containing a number of changes requested by municipal managers, insurance trusts and insurers. While as career and volunteer firefighters we were rightly concerned about watering

down some of the protections in the former HB 1231, the PPFPA agreed to those reductions because we desired a consensus bill.

And a consensus bill was exactly what we produced. Act 46 of 2011 was the product of negotiations among all stakeholders, including many of the same representatives who now criticize the law.

On February 7, 2011, in a joint letter, the PA League of Cities and Municipalities (now PA Municipal League), the PA State Association of Township Commissioners, the PA State Association of Township Supervisors, the PA State Association of Boroughs and the Delaware Valley Municipal Management Association all endorsed the changes to the former HB 1231 that became HB 797 and ultimately Act 46 of 2011, as follows:

We believe that the agreed upon language addresses the concerns noted in Gov. Rendell's veto message and properly balances the rights of firefighters who contract cancer in the line of duty with the fiscal responsibilities of local governments in Pennsylvania.

Again, just a few weeks later, on March 3, 2011, that same coalition issued a letter **supporting** the passage of HB 797.

Notwithstanding their involvement in the drafting of the law, and their public support of same, many of those same taxpayer-funded associations now seek to gut the protections provided by Act 46 **and supported by them**.

The management about-face is particularly troubling given that in the two years since its passage, Act 46's cancer-presumption process has unfolded basically as expected. In 2011, we projected that approximately 10 or so new claims would be filed each year - an extraordinarily low number given the 10,000 career and estimated 50,000 volunteer firefighters in service in our Commonwealth. We also anticipated an initial number of "look-back" or legacy claims in light of the 300/600 week limitations period. And that is what happened.

In July 2013, the Department of Labor and Industry issued a required report documenting the initial experience under Act 46. The results were what we anticipated - 102 claims in the two-year period. Just 12 of the claims were new (only 6 per year). The remaining 90 claims were legacy claims covering a 10-year period, again, less than 10 claims per year. Honestly, I am not sure what the fuss is about. The law has worked the way it was intended to work.

In light of this experience, I am very troubled by decisions (or threats) by municipal insurance trusts to refuse to insure volunteer firefighters - these are the same people who negotiated and supported the law, mind you. I am also troubled by rate spikes by private insurers that seem to have no relation at all to the very small number of claims filed under Act 46 so far. These are not insignificant concerns. In fact, rather than gut the consensus protections represented by Act 46 as advocated by the

municipal managers, insurers and trusts, I recommend that the General Assembly investigate further regulation of municipal insurance trusts and private insurers to provide greater transparency and confidence that those groups are not merely gaming the system in order to secure benefit cuts **that they endorsed just two years ago**. From my perspective, that is the real problem with Act 46's implementation, not sick and dying firefighters or their families, all of whom made the ultimate sacrifice to keep our Commonwealth safe and secure.

In closing, I would like to thank the members of this Joint Committee for your steadfast support of firefighters and their families, especially in their time of need. I would be happy to answer any questions that any of the members may have. Thank you.