



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

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

ON

**HB 194 (*PN 185*) AND
HB 2148 (*PN 3492*)**

PRESENTED BY

**ELAM M. HERR,
ASSISTANT EXECUTIVE DIRECTOR**

JUNE 13, 2016

HARRISBURG, PA

Chairman Barrar and members of the House Veterans Affairs and Emergency Preparedness Committee:

Good morning. My name is Elam M. Herr and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,454 townships in Pennsylvania represented by the Association and the opportunity to testify on this safety issue that is important to our members.

Our townships comprise 95 percent of the Commonwealth's land area and are home to 5.5 million Pennsylvanians — 44 percent of the state's population. These townships are diverse, ranging from rural communities with fewer than 200 residents to more populated communities with more than 60,000 residents.

The Heart and Lung Act was created to provide important protections for our police and paid firefighters, to keep them financially whole when injured on the job by requiring the public employer to make up the difference between workers' compensation and their salary. This is a very valuable benefit appropriately provided to those who serve their community in critical public safety professions. It is also a very expensive benefit and any expansion must carefully balance appropriate benefits for full-time public safety employees with the costs to the public employer and the community. In addition, unintended consequences need to be avoided with well-thought out wording due to the awkward language of the existing act and the voluminous case law interpreting its provisions.

House Bill 194 (PN 185) would amend the Heart and Lung Act to cover firemen who are also employed by a fire department as an emergency medical technician or a paramedic. However, the way the language is drafted, and because there aren't definitions in the current law, it appears that the bill may unintentionally remove paid firemen from coverage under the act. In addition, it isn't clear in this context what a "fire department" means. Would this include a volunteer fire department that also has an ambulance with paid EMTs or even a paid paramedic? Or would this expansion only apply to government "employers," and if so, would this apply to all local governments? While the intention of the bill appears to be very narrow in scope, the language as drafted raises significant questions and it appears to expand the impact beyond the stated intention.

House Bill 2148 (PN 3492) proposal would appear to expand the act's coverage to a number of listed positions, primarily various firemen and fire-related positions who are employed by the Commonwealth. However, given the antiquated wording of the act, we must question whether the intent fully matches the actual language.

Generally the current law matches the covered employee position with the governmental employer. In this case, the first several items listed stipulate the employing government entity. However, forest patrolmen and forest technician do not list the

governmental employer, which we contend is overly vague. If these employees are intended to be employees of the Commonwealth or of a specific state agency, we recommend that the language be amended to make this clear. Definitions for these positions would be helpful, but we concede that this is a drafting challenge considering the existing law.

What exactly is meant by “firemen of airport authorities?” Does this mean firemen “employed by” airport authorities? If so, it should say so. Otherwise, it could be interpreted as applying to any fireman who responds to an emergency incident at an airport.

While we are not attempting to speak on behalf of the cities, we question whether the term “emergency medical services personnel employed within a city fire department” is as tight as necessary? Should this say “employed by a city fire department”? And will future versions of this legislation include personnel employed by any municipality?

Any change to the Heart and Lung act should be narrow and explicit. We are concerned that as drafted, HB 2148 is not sufficiently specific and should be tightened *before* this proposal moves forward in order to avoid unintended consequences.

On page 4, the bill would add “city” to the existing list of “county, township or municipality.” Generally, “municipality” includes both township and city and we are not sure of the reasoning for adding the term here. In addition, the terms “city” and “airport authority” are also added to a list on page 8 that includes police, sheriff, or fire department and does not seem to fit within the context. In addition, the list of the new positions does not seem to make sense in Section 2, as this was always a short list and did not include every covered position,

Perhaps one solution to address the wording challenges pointed out today is to update the language of the existing act to current legislative drafting, while incorporating key court cases into the statute. We understand the vast challenge this may impose, but without such an endeavor, the implications of even the most narrow expansion may be interpreted by the courts in a more broad light, leading to increased costs and possible unfunded mandates, which communities can ill afford.

In closing, we believe that any expansion of the Heart and Lung Act must balance the costs to the community with the increased benefits to our public safety employees. It must be very narrow in scope and tightly worded to avoid unintended and expensive consequences.

I will now attempt to answer any questions that you may have.