

**MEETING OF THE ACT 47 MUNICIPAL FISCAL DISTRESS TASK FORCE-  
SUBCOMMITTEE ON LABOR**

**Wednesday, May 22, 2013**

The meeting of the Act 47 Municipal Fiscal Distress Task Force Subcommittee on Labor was called to order by Representative Chris Ross at 10:05 a.m. in Room 39 East Wing-Main Capitol Building with the following individuals present:

**Members**

**Representative Chris Ross, Chair  
Ellen Horan, Coalition for Sustainable Communities  
Bill Dando, AFSCME  
Bruce Kelley, PA Municipal League  
John Kuntzelman, PA State Association of Township Commissioners  
Art Martynuska, PA Professional Fire Fighters Association  
Joseph Regan, Fraternal Order of Police**

**Staff**

**David Greene, Local Government Commission  
Wanda Snader, House Local Government Committee (R)  
Kris Gazsi, Local Government Commission  
Jon Castelli, House Urban Affairs Committee (D)  
Christine Goldbeck, House Urban Affairs Committee (R)  
Robert Gaertner, House Local Government Committee (R)  
Mike Gasbarre, Local Government Commission  
Karen Bear, Local Government Commission**

As the first order of business Representative Ross welcomed all of the Subcommittee members, staff and guests to the meeting and asked the attendants to briefly introduce themselves to the group. Representative Ross shared his concern that the Labor Subcommittee had the greatest potential to be hampered by gridlock, but also expressed his optimism that the subcommittee members would be willing to work through any potential pitfalls.

All members and guests received copies of the Act 47 Labor Subcommittee meeting agenda, comment letter of the Pennsylvania Municipal League, joint comment document of AFSCME, Fraternal Order of Police and Pennsylvania Fire Fighters Association (union comment document), comment letter of the Pennsylvania State Association of Township Commissioners, comment document of the Pennsylvania State Association of Township Supervisors, the Proposed Subcommittee Issues, and the Municipalities Financial Recovery Act (Act 47).

Representative Ross began the substantive discussion of the meeting by commenting on the eight issues listed under labor on the "proposed subcommittee issues" document provided to all members attending the meeting. He noted that seven of the proposed issues deal with adjustments to arbitration, particularly under Act 111. They read as follows:

- 1. Amend Act 111 or Act 47 to address the time limit for arbitration panel awards. Permit Act 47 municipalities to immediately petition the court of common pleas if timeframes are not met.**
- 2. Amend Act 111 requiring sharing of the costs of the neutral third party arbitrator.**
- 3. Arbitration award should consider the municipality's ability to pay.**
- 4. Limit arbitration process to a certain timeframe and open hearings to the public.**
- 5. Random selection of a neutral arbitrator by the state.**
- 6. Arbitration award should be based on each party's last best offer.**
- 7. Expand ability of municipalities to appeal arbitration awards in court.**

He also expressed his concern, that when a municipality faces an unfavorable Act 111 arbitration award, it can make the municipality's distress more troublesome.

Joseph Regan engaged Representative Ross in a brief discussion as to why the Subcommittee should look into these issues which propose to limit the unions' bargaining positions, reiterating the sentiments contained within the comments submitted to the Labor Subcommittee by the union comment document. Mr. Regan expressed the unions' position

that the unions' work on Senate Bill 1321 from the last session, which resulted in Act 133 of 2012, contained a significant overhaul of the collective bargaining process, and that legislation should be given a chance to work before asking the unions to agree to any more legislative changes. Representative Ross responded that he had recognized that the unions were not interested in discussing the issues that had been proposed for the Labor Subcommittee, and instead was proposing to look at some different, related issues.

Bill Dando called attention to the eighth issue on the list of Labor Subcommittee issues, proposing a waiver for prevailing wage for Act 47 municipalities, and offered that AFSCME did not believe that this would be a possible policy change. Christine Goldbeck responded that the prevailing wage proposal, like the other proposals listed on the list of subcommittee issues, was an issue brought up at the Act 47 hearings from previous years, and was not the recommendation of any particular person.

Representative Ross asked the entire subcommittee to discuss the issue of ability to pay. Specifically, how should a municipality's ability to pay relate to a union contract, and what role should unions play in the process of forming a recovery plan, and is ability to pay simply a question of whether a municipality has reached its millage limit? Joseph Regan responded that there is an issue of perception surrounding the arbitration awards that suggests that the awards are outlandish, which is not his experience. Moreover, Mr. Regan shared that the question of whether a municipality has the ability to pay is always made an issue when negotiating a collective bargaining contract. Art Martynuska agreed and said that municipalities always put together a demonstration for ability to pay as a negotiating point. Mr. Martynuska continued that municipalities, especially distressed municipalities, have gotten concessions from fire and police, including downsizing, insurance co-pays, etc. He raised a concern that there is not enough discussion about cutting public safety, only about getting more cuts from fire and police. Reforming municipal recovery should focus on enforcement and limiting the time that municipalities can be in Act 47, otherwise Act 47 protection is simply municipal welfare with no incentive to leave distressed status. Representative Ross acknowledged Art Martynuska's point about enforcement and noted that enforcement is a particularly difficult point because it raises constitutional concerns; one of the only real options for enforcement is withholding funds, which may just make problems worse.

Representative Ross next turned to the municipal organizations for their input. Ellen Horan pointed out that some of the benefits of Act 47 would be useful before a municipality falls under Act 47. Representative Ross agreed, noting that although we have a watch list and an uncodified early intervention program, we do not have plans to get municipalities back out of Act 47, enforcement mechanisms for Act 47, or anything in place to help municipalities reverse course to avoid Act 47 status altogether. Bruce Kelley raised the point that cost cutting involves very difficult decisions; municipalities are not going to be able to keep up with plowing and street maintenance, and people will die without adequate access to emergency care. Mr. Kelley asked, what other mechanisms are available to cut costs other than cutting people?

Representative Ross asked whether Ms. Horan and Mr. Kelley have opinions about how ability to pay works in practice, given that Mr. Regan has suggested that it is always part of the conversation whether part of Act 47 or not. Bruce Kelley responded that it is not clear what roll ability to pay is having in the City of Altoona labor negotiations, but he is seeing a significant number of officers leaving at the end of this year's labor contract. Ellen Horan said that she likes the way that the coordinator comes into the process and gets all of the parties talking, and establish parameters that say this is what the municipality could afford to spend on services, so everyone knows what is doable. Representative Ross asked Ms. Horan whether this is the result of a fact-finding process, and she replied that it was. Representative Ross replied that he would like to understand why the municipalities see this differently than Joseph Regan and the unions who assert that this is always considered during contract negotiation.

Representative Ross returned to Joseph Regan and asked him what participation he would like to see for unions in the Act 47 plan creation process. Mr. Regan replied that the FOP would primarily like to have a roll to determine what the exit strategy is for Act 47.

Representative Ross then asked whether there could be a mechanism to allow bargaining units to propose alternatives to proposals raised by the coordinator that might improve the health of the municipality while avoiding layoffs and still being positive for union members; if so could this mechanism be made part of Act 47. Art Martynuska raised the problem of what to do if the alternatives proposed are ignored by the municipality and coordinator and the coordinator simply rubber-stamps what the municipality wanted in the first place. Representative Ross then suggested that the Subcommittee also discuss the value of open meetings. An open meeting has the ability to expose deals that benefit only certain parties, but they also can make it more difficult to be candid. Representative Ross and Joseph Regan briefly discussed the value of making at least some portion of labor negotiations public.

Christine Goldbeck asked whether the Subcommittee was proposing to amend the Act 47 process to require that there be a time period early in the process where labor has an opportunity to make an alternative proposal that must be considered by the municipality and coordinator before another plan is put into place. Representative Ross said that it would make sense to talk about such a requirement in the context of the coordinator's fact finding; once the coordinator has identified all the bills that are due, all stakeholders would be in a position to make an informed proposal knowing what the problems are. Mike Gasbarre suggested that this could be made part of a codified early intervention process, which right now is voluntary. Bruce Kelley noted that even though it is voluntary, just about everyone is taking advantage of it to appear diligent.

Representative Ross returned the conversation to both ability to pay, and resistance to leaving Act 47 protection. Ellen Horan offered that under Act 47, ability to pay is really established by the recovery plan itself. Representative Ross asked the labor representatives why they feel that municipalities are not eager to leave Act 47. He questioned whether the issue might be psychological; when a municipality is distressed is it declaring that it is expecting concessions and is going to be difficult to negotiate with? There was some general agreement on this point that this could be an issue. Joseph Regan mentioned it may also be because of the coordinator's role.

Joseph Regan suggested that the Subcommittee should discuss pensions and a plan for consolidation. This would provide an opportunity to save large amounts of administrative costs, especially for the small plans. Representative Ross agreed that it is a topic worth discussing. Groups have looked at this in the past and tend to look at the big cities as one issue and all of the smaller municipalities as another. He also suggested it might make sense to consider merging the plans of distressed municipalities. Regan noted that the FOP has polled its members about creating a pooled plan under the Pennsylvania Municipal Retirement System (PMRS) for all new hires; Representative Grell has a bill that does this. Representative Ross agreed that the subcommittee should consider this, but noted that it is hard to ask a municipality that has a fully funded pension to merge it with one that is underfunded, but PMRS should be able to keep separate accounts.

Art Martynuska raised the final topic of discussion by asking Bruce Kelley whether he believed that Altoona would even be in Act 47 if it had conducted a reassessment for property taxes, which has not been done since the 1950s. Kelley agreed that he believes that Altoona would be in a healthier position. Mr. Kelley pointed out that right now, Altoona has to go to the court every year to exceed its millage limit, which is difficult because the city is asking to keep increasing taxes on an impoverished tax base. The members discussed that this raises complex questions because reassessment contains anti-windfall restrictions to make it difficult to profit from reassessment in the short run, and also raises fairness questions about rebalancing taxes so some residents pay more to keep overtaxed businesses from leaving the municipality.

At the conclusion of the meeting, Representative Ross announced that the next meeting of the Labor Subcommittee would be Thursday, June 6, 2013, at 10 a.m. in Room 39 East Wing-Main Capitol Building. He announced that the minutes of this meeting would be posted publicly, and that all submissions would be placed on the website in the secure area. Representative Ross asked all of the members to continue to consider these issues and

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**think about areas for consensus. If no consensus is possible, the subcommittee would present its discussion by presenting majority positions and dissenting positions.**

**The meeting adjourned at 11:30 a.m.**

**Attested: \_\_\_\_\_  
May 29, 2013**