



The Pennsylvania Municipal League

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A Century of Commitment

To: Representative Chris Ross, Chair, Labor Subcommittee, Act 47 Task Force
From: Councilmember Bruce Kelley, City of Altoona
Date: May 15, 2013
Re: PML Comments on Labor Subcommittee Issues

Please accept the following commentary from the PA Municipal League (PML) on the labor issues listed for subcommittee discussion:

PML's testimony at the Act 47 hearings argued for prevention. As important as it is to revise Act 47, measures must also be taken to prevent municipal distress. For the last two years PML has concentrated on reforms of the most significant cost drivers in municipal government – Act 111 and municipal pensions. Without changes to these two laws, ultimately reducing the current and future costs of public safety personnel, municipalities will continue to turn to Act 47 for assistance and protection. From a policy perspective, PML believes the Commonwealth should be working to prevent municipal distress whenever possible.

Our efforts, coupled with those of our partners, under the umbrella of the Coalition for Sustainable Communities, have resulted in a proposal to amend Act 111. Senator Earll introduced this bill last session and Senator Eichelberger will be introducing a similar version this session. Many of the issues for subcommittee discussion are part of these legislative proposals and have been vetted extensively by our membership.

- **Amend Act 111 or Act 47 to address time limit for arbitration panel awards. Permit Act 47 municipalities to immediately petition the court of common pleas if timeframes are not met.**

PML supports the concept of limiting the arbitration time under both Act 111 and Act 47. In most cases, awards should be determined and finalized before the end of the fiscal year to avoid budgeting issues and retroactive awards.

- **Amend Act 111 requiring sharing of the costs of the neutral third party arbitrator.**

PML supports the employer and union sharing the cost of the neutral arbitrator equally, rather than the employer paying the full bill. This is a matter of fairness as there are two parties to the process. This cost can be a few thousand dollars to more than ten thousand depending on the issues and the amount of time required. We also believe that sharing the cost equally will incentivize more negotiation prior to deciding to declare an impasse and proceed to arbitration.

- **Arbitration award should consider municipality's ability to pay.**

PML believes consideration of the municipality's ability to pay, which is essentially the taxpayers' ability to pay, is key to reforming Act 111. Requiring the neutral arbitrator to base his decision on the evidence before him and to justify the award he is handing down is paramount to controlling costs. Furthermore, either party should be able to appeal a decision where the arbitrator has not done his due diligence in analyzing the evidence and setting forth an award.

- **Limit arbitration process to a certain timeframe and open hearings to the public.**

As a general rule, PML believes the arbitration process should be completed by the end of the fiscal year in which it was started; however this may not be practicable in all cases.

- **Random selection of a neutral arbitrator by the state.**

The employer and employee should not lose their ability to narrow the neutral down from a larger list. It is important for each side to have a say in the final choice; this process gives each side a level of confidence that the most neutral person has been chosen. Random selection by the state would not foster neutrality.

- **Arbitration award should be based on each party's last best offer.**

PML does not support the idea of the arbitration award resulting from a choice of last best offer. We do not believe it will have the desired result of each party putting their most reasonable offer on the table. Additionally, the neutral arbitrator's job would be largely irrelevant if last best offer were implemented.

- **Expand ability of municipalities to appeal arbitration awards in court.**

Case law has produced four narrow standards for appeal of awards. PML believes these narrow standards should be preserved through an amendment to Act 111. These standards should only be expanded to include review of the arbitrator's decision based on his analysis of the municipality's ability to pay. In other words, if the arbitrator does not base his award on a thorough, reasoned analysis of the evidence presented, then a fifth reason for appeal would be allowed.

- **Waive prevailing wage for only Act 47 municipalities.**

PML supports waiving prevailing wage for Act 47 municipalities.

It is important to note that while providing additional authority or waiving mandates is obviously useful to fiscally distressed municipalities, it doesn't come without drawbacks. Act 47 communities come to rely on this additional assistance and it becomes difficult to move out from under the protections afforded for fear fiscal distress will return. PML believes the Commonwealth should authorize additional local powers and reduce mandates for all municipalities in an effort to keep municipalities out of Act 47.