



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

**BEFORE THE  
SENATE FINANCE COMMITTEE**

**ON**

**SB 596**

**PRESENTED BY**

**ELAM M. HERR  
ASSISTANT EXECUTIVE DIRECTOR**

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**HARRISBURG, PENNSYLVANIA**

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Chairman Browne and members of the Senate Finance 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 1,456 townships in Pennsylvania represented by the Association.

Townships comprise 95 percent of the commonwealth's land area and are home to more than 5.1 million Pennsylvanians, nearly 42 percent of all state residents. These townships are very diverse, ranging from rural, agricultural communities with fewer than 200 residents to more urban, populated communities with populations approaching 70,000 residents.

As a service to its members, the Association does provide municipal pension plans through its insurance program. However, this program administers less than a dozen police pension plans.

The Association's membership has long opposed any proposal to create a single, mandatory pension program for municipal employees and any legislation that would remove the administration of local pension and benefit plans from local control. This policy was most recently approved by our membership at the 2003 PSATS State Convention and reads as follows:

*03-54 RESOLVED, That PSATS oppose legislation to establish a mandatory, single state pension system for municipal employees, to require the mandatory participation of local government employees in the system, and/or to remove from local control the administration of local pension and benefit plans.*

The authority to make decisions concerning employee benefits must remain with township officials, who are elected to manage the fiscal affairs of their township. In order to exercise their responsibility for local tax dollars, this decision-making process must remain at the local level. We believe that local elected officials are best positioned to determine their employees' salary and benefits.

We believe that the collective bargaining process is the appropriate method for the union to bargain for expanded pension benefits, not through a uniform state mandate. If the police union can no longer negotiate for additional pension benefits with local elected officials, the union will turn to increased wages and health benefits or will go directly to the legislature to ask for additional pension benefits without worrying about the cost to the taxpayer.

While we oppose the concept of a mandatory statewide municipal police pension system, we offer the following specific comments on SB 596:

Under SB 596, the proposed Local Government Employees' Retirement Board would be made up of three local government officials and three active or retired local government police employees. The board should be composed of a majority of local government officials because it is the employers who must come up with the funding to provide these benefits, not the employees. As currently written, this board would have an even number of members making tie

votes likely, particularly with the makeup of the board. Also, what happens when there is a tie vote? Would the vote be settled by an arbitrator?

Another issue arises with the creation of the two boards, the Local Government Employee Retirement System and the State Employee Retirement System boards. Would the investment pools for each of these boards be kept separate? It is our understanding that if separate boards are established, they must have separate investment pools under IRS regulations. Will each board make the investment decisions for its own investment pool? And if the funds are kept separate, how will the proposed administrative savings be obtained?

SERS currently works with only one employer, the Commonwealth of Pennsylvania, and to our knowledge does not have the administrative mechanisms in place to work with municipal employers. We believe that SERS would need to change to deal with this proposal, and that SERS has little, if any, working knowledge of local government. In addition, what is SERS opinion of this proposal? How does SERS propose to handle the additional responsibilities of a statewide police pension system? What are SERS cost projections for dealing with a whole new set of employers?

Why does this proposal create a new board when the Pennsylvania Municipal Retirement System has existed since 1974? While we oppose the creation of a mandatory pension system, PMRS has strong municipal representation on its board and offers individually designed retirement packages for municipalities, with portability within the system.

If this system is established, an actuarial study would be used to determine the value of each police pension plan. What would the actuarial basis be for this study and how would it be determined? This is an important provision because this actuarial study would determine each municipality's obligations and contributions based on its current plan.

We believe that a fiscal advisory note is needed to determine the costs vs. benefit of this proposal. The advisory note should determine not only any potential savings in administrative costs, but also the likely increased costs of expanded pension benefits.

In a previous advisory note prepared by the Public Employee Retirement Commission, it notes that the administrative costs could be reduced from \$1,347 to \$210 per member. It is unclear what numbers were used as the basis for this calculation. Were audited numbers used? Has SERS provided input on these computations?

While SB 596 may decrease some administrative costs, it could drive up other costs. Because of the limited menu of pension options, bargaining units will push to receive the highest benefit allowed under the system as a result of collective bargaining and arbitration. Expanded benefits will increase local government costs for pension benefits.

With a centralized system, it would be easier for police to lobby for new and improved benefits. These benefits should be bargained for at the local level, not taken from a limited scope of options imposed at the state level. Otherwise, local governments have no control of the costs associated with these benefits.

We believe that the creation of a mandatory local government police pension system would take away a tool that can be used to retain employees. Currently, municipal employers use salaries and benefits to attract and retain qualified employees. Since pensions are only one portion of the program, is the next step for the state to impose mandatory salary schedules and insurance benefits? If municipal employers provided police pension benefits from a mandatory state program, it would become increasingly difficult and expensive to retain qualified employees. By taking away local governments' ability to determine pension benefits, local governments' ability to successfully hire and retain quality officers would be compromised.

The phase-in provisions of this legislation would lead to different pension plans for members of the same police department. If a local government had a pension system in place prior to the enactment of this legislation, and new hires are required to participate in the statewide system, a municipality may have a number of officers employed and participating in different retirements plans. This seems to raise a question of fairness. And honestly, do you really think that this would not become a factor in future bargaining sessions?

On page 71, it appears that local governments could unilaterally elect or "agree" to participate in a supplemental local retirement benefit accumulation plan. But could participation in this supplemental plan be achieved through collective bargaining or arbitration awards? It appears that once a local government opted in, that they could only opt out if subject to a collective bargaining agreement or an arbitration award. What if the local government could no longer afford the matching contribution to the supplemental plan?

Most state and private pension systems are moving toward a defined contribution plan, as opposed to a defined benefit program. This trend will limit the future financial obligation of the municipality while continuing to provide a pension benefit to the employee. If this is the trend, why aren't we looking to defined contribution plans as a solution to the ever-increasing liability imposed by defined benefit plans?

On page 84, the Board could obtain late payments with interest directly from intergovernmental revenues due to the local government from the State Treasurer's office. Again, while we oppose this entire proposal, we must specifically oppose this particular section. Would this include liquid fuels monies? Fine monies? Other types of state aid? We believe that the court system is the proper avenue to use if a local government is delinquent in its accounts and that a local government's financial condition should be taken into consideration. Also, what happens if the local government wants to dispute its contribution amount? Could the Board simply take the contribution amount from the State Treasurer's office without some sort of an appeal?

Page 85 of the bill gives the Board *mandamus* as a cure for forcing local governments to make contributions or payments as required by this legislation. It is our understanding that *mandamus* is an extraordinary remedy that is usually issued only to command the performance of a ministerial act and that it cannot be used to substitute the court's judgement for the defendant's in the performance of a discretionary act. We question the appropriateness of *mandamus* in this proposal.

There are too many unanswered questions to this proposal and we believe that it is not in the best interest of local government. As such, we ask you to oppose SB 596. Municipal officials are responsible for taxpayer dollars and must retain control over the administration of local pension plans. Local elected officials are best positioned to make decisions concerning police pension benefits, not a state-mandated program.

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