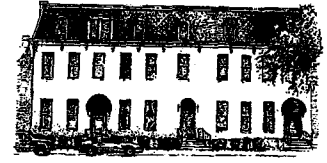




The Pennsylvania League of Cities and Municipalities



A Century of Commitment

Pennsylvania League of Cities and Municipalities

Testimony before the Senate Urban Affairs and Housing Committee

and the Senate Finance Committee

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Municipal Pensions

Presented by:

The Honorable Richard A. Friedberg, Mayor, City of Meadville

And

Mr. Richard D. Miller, Esq., Campbell, Durrant, Beatty, Palombo and Miller, P.C.

Good morning Chairman Pippy, Chairman Browne, members of the Senate Urban Affairs and Housing Committee and members of the Senate Finance Committees. I am Richard Friedberg, Mayor of Meadville. With me today is Richard Miller from the Pittsburgh law firm of Campbell, Durrant, Beatty, Palombo and Miller. Thank you for the opportunity to testify before you today.

We are here representing the members of the Pennsylvania League of Cities and Municipalities (PLCM) and hope to provide you with some general information about a very large and complex topic – municipal pensions. In order to frame the topic somewhat, my testimony today will concentrate on pensions for police and paid fire personnel in cities of the third class, boroughs and townships and is limited to four areas – general information regarding municipal pensions, Act 111 of 1968, legislative mandates liberalizing pensions and the concept of a statewide police pension system. .

Municipal Pensions Generally

There are over 3,000 local government pension plans in the Commonwealth. Over 1,000 of these plans are for police and fire personnel. Under the Third Class City Code, third class cities must provide a defined benefit pension plan for their police and paid firefighters. The Code also sets out mandatory pension benefits, such as retirement age and vesting requirements. Act 600 of 1956 requires boroughs, towns and townships with three or more full-time police officers to provide a defined benefit pension plan and also provides for mandatory benefits. Boroughs, towns and townships with fewer than three full-time officers have the option of providing a pension plan, as well as the option of falling under Act 600 or implementing another benefit structure that complies with the Borough, Town or Township Codes. Furthermore, boroughs and townships have the choice of whether to provide a pension plan to paid firefighters.

Cities, boroughs and townships also have the option of participating in the Pennsylvania Municipal Retirement System (PMRS). PMRS is a separate pension system established by state law. It provides municipalities with a choice of benefit levels and plan administration. Pension benefits of a PMRS plan do not need to comply with Act 600 or the Third Class City Code.

All municipal plans fall under the provisions of Act 205 of 1984 – The Municipal Pension Plan Funding Standard and Recovery Act. This law sets forth funding and reporting requirements for all local government pension plans and is intended to ensure that local governments can pay their future pension obligations. The provisions of this law are administered by the Public Employee Retirement Commission (PERC). In 1985, all unfunded pension liability for each municipality was recalculated and amortized over a 30 year period. Annually, the municipal obligation to keep the plans solvent is calculated based on actuarial reports required by PERC.

Future pension obligations are a significant source of concern for local officials. Annually, if not daily, they are looking at the future obligations they have to retirees and trying to make the best choices to meet those needs. A couple of significant factors are outside the control of local government, however. Act 111 and legislation liberalizing pension benefits are two areas that have a tremendous impact on local government expenses.

Act 111

One cannot study municipal pensions in Pennsylvania, without understanding the overriding impact of Act 111 on pension benefits and resulting costs. Act 111 of 1968 is the law that governs collective bargaining for the terms and conditions of employment for police and fire personnel, including pension benefits. In Pennsylvania, police and fire personnel are prohibited from striking. In return they are given the opportunity to collectively bargain for benefits and if the bargaining process does not result in a contract, both the union and the municipal employer are held to a binding arbitration decision. Unequivocally, Act 111 has a tremendous impact on the pension benefits a police or fire force receives and the cost incurred by municipal employers, and in turn the taxpayer.

In the year in which a contract is to expire, the collective bargaining process starts six months before the start of the fiscal year. If agreement cannot be reached, one side will request arbitration and a board of three arbitrators will be chosen. Each side picks one individual and the third is agreed to by both sides. The result is a decision by the board that is binding. This decision is essentially a mandate to the municipal employer to provide the terms and conditions decided by the board. Moreover, the arbitration board making the decision is not required to take

into account what a municipality can afford in terms of benefits and the future obligations of those benefits. The arbitration board can also award items that were not part of the initial negotiation sessions.

When a benefit is given in an arbitration board in one municipality it paves the way for the same benefit to be awarded in neighboring communities. A domino effect is the best way to describe how the benefit becomes a standard for pension plans across the state. For example, an arbitration board gives an award that includes a cost-of-living adjustment for a city's retirees. When the union in the neighboring city is at the bargaining table, that award is used as a basis for what the bargaining police force asks for in its contract and if the process reaches arbitration, the union representative argues for benefits based on recent awards.

How legislation affects the cost of municipal pensions

Today's local government workforce of paid police and fire personnel have tremendous employment benefits compared to the public safety forces of years ago. Job security, excellent pension benefits and post-retirement healthcare benefits are the norm and far exceed private sector benefits. Despite the fact that police and fire personnel are not in need of more benefits; the General Assembly continues to introduce legislation to improve upon these benefits. All of this legislation has the potential, if it becomes law, to have a serious impact on the local government expense of public safety personnel. And, just to be clear, these proposals never provide additional funding to cover the increased employment and pension costs they would generate.

House Bill 2472 is just one example of the many pieces of legislation that were introduced this session that would have a financial impact on municipal budgets. House Bill 2472 establishes a deferred retirement option plan (DROP) for police officers who have reached retirement age. The legislation would authorize the use of DROP plans in Pennsylvania. DROP plans allow officers to continue working while their monthly pension benefits are placed in an interest bearing account for a certain number of years, usually five. At the end of the DROP period, the officer finally retires and collects a lump sum payment of his invested pension payments.

DROP plans were originally at the option of an employer to keep a valued employee who was about to retire and leave with knowledge and job skills that could not be readily replaced. What would make this legislation so expensive for municipal employers is that the authorized DROP plans would first become a benefit that could be awarded in arbitration; and second the plan would be available to all retiring officers even if the municipality did not want to retain certain officers beyond retirement. Furthermore, retirement eligible officers will continue to work during the DROP term. During this time they will collect both a salary and pension from their municipal employer who has planned to pay one or the other, but not both. Additionally, the extended employment time means older, higher paid officers will stay on, leaving less opportunity for younger, lower paid officers to join the ranks. Finally, the DROP legislation does not address other items, such as the procedure should an officer in a DROP plan become disabled. Areas of legislation that are left open to interpretation will only result in legal expenses for municipalities until such questions are sorted out.

To summarize, such legislation creates a benefit that may be offered to employees. In reality, these benefits are now available to be awarded under Act 111 arbitration and municipal employers are forced to provide them. And like a domino effect discussed earlier, the benefit becomes the standard in union contracts across the Commonwealth.

We would be remiss if we did not take a moment to remind the committee members that municipal government pays for public safety personnel employment and pension benefits through tax revenue. The real estate property tax is the main source of revenue. Therefore, when benefits are increased through legislation or the arbitration award increases expenses, the resident taxpayer foots the bill. This is a very important item to remember because property taxes are stretched to the limit in many communities. Municipalities have a millage rate limit on property taxes that cannot be exceeded without court approval. Furthermore, many elected officials know that they cannot ask their residents to pay more taxes; thereby leaving many communities faced with the unpalatable decision of having to make cuts to vital public safety services.

Statewide Police Pension Plan

Over the last several sessions the concept of a statewide police pension plan has been introduced by members of the House and Senate and discussed in public hearings. PLCM has consistently supported the concept because of the potential to address the administrative inefficiencies, lack of portability and decentralized asset management that mark our current system. Although we support a statewide system, PLCM believes the current language needs substantial revision. We would like spend a few minutes on this issue because we believe we will continue to see this concept introduced and we believe that we have amendments that are a win for both the employee and employer.

For background proposes, the current bill is Senate Bill 596. It amends the State Employees Retirement System to add an additional membership classification for municipal police officers. The legislation applies across the board to all municipalities and their future full-time officers. It would be mandatory for all new hires to enter the statewide system, rather than the local plan. Municipalities would have officers in two separate plans and would still administer their current plan until all the officers and their beneficiaries are deceased, while at the same time making contributions to the statewide plan.

In terms of general provisions, statewide plan would provide four benefit levels for new hires; municipalities would be authorized to provide part-time officers with a pension plan; municipalities would have the option to provide a supplemental retirement benefit plan (a 457 plan); and the bill allows municipalities to move their current officers and beneficiaries into the statewide plan if their local plan is fully funded and two-thirds of the members vote to move into the statewide plan.

In discussing our concerns with the current proposal and offering alternatives, we have argued that the most important aspect of statewide pension reform is that the benefits need to be provided outside the realm of Act 111. In other words, we cannot support a pension plan at the state level that still allows benefits to be negotiated locally within the confines of Act 111. If local government cannot get out from under Act 111, a new system for administering local

pensions will not work. Therefore, benefits must not be negotiated under a statewide plan, but determined up front in the legislation.

We have also suggested that the four benefit levels in Senate Bill 596 need to be reduced to one which is consistent with the benefits currently available under Act 600 or the Third Class City Code. Finally, we have explained that there should be no local obligation to provide part-time officers with a pension; that the supplemental retirement plan should be clearly at the option of the municipal employer; and that, constitutionally, all current officers and beneficiaries must agree to move into the statewide plan, not just two-thirds of the members and beneficiaries.

In future sessions, we hope that PLCM will continue to be able to offer our alternative approach to a statewide municipal pension system. We believe we can help produce a bill that reforms Pennsylvania's local pension system, still provides excellent benefits to new police officers and is less expensive for Pennsylvania's taxpayers.

In closing, PLCM is working on several fronts to address the significant costs of municipal pensions. We monitor legislation and oppose bills that liberalize benefits creating more expense; we have offered alternatives to Senate Bill 596 in hopes of reforming the pension system in a positive way; and we have been in discussions with the City of Pittsburgh concerning its approach to pension reform and will continue to work with and support Pittsburgh's initiatives as much as possible.

Again, thank you for this opportunity and I will turn the discussion over to Rich Miller for his comments.