

**Testimony before the
Pennsylvania Senate Local Government Committee and
Pennsylvania House Local Government Committee**

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Good morning. I am Stephanie Teoli Kuhls, manager of Middletown Township in Bucks County. I am also here today in my capacity as President of the Association for Pennsylvania Municipal Management (APMM), an organization of more than 350 professional municipal managers representing communities from across the Commonwealth. Thank you for giving me the opportunity to speak regarding Middletown's experience with the Act 111 Arbitration process and to advocate for the passage of HB 1845 and SB 1111.

Middletown's experience with Act 111 Binding Arbitration is that the process is fatally flawed. It is unwieldy in timing, inherently biased toward the unions and unnecessarily costly to taxpayers.

Middletown Township is a second class township of more than 45,000 residents. It is the third largest municipality in Bucks County. Our police department has 54 sworn officers and a budget of more than \$11,400,000. The police budget takes up 69 percent of the General Fund. Middletown Township is neither affluent, nor financially distressed. According to the 2010 census, our average resident makes just over \$52,000.

Although the community boasts large commercial and retail taxpayers, including Sesame Place and the Oxford Valley Mall, the township has been significantly impacted by the economic downturn.

In fact, Middletown Township declared an economic state of emergency in 2010 so it could use \$1 million from its investment fund to balance the 2011 budget. Since then, the township has had to rely on the investment fund to meet expenditure obligations for the 2012, 2013 and 2014 budgets. As most municipalities, the township has taken steps to control spending and reduce costs to deal with dwindling revenue sources.

The Middletown Township General Fund has operated with a structural deficit – with expenses outpacing revenues – for the past eight years. In 2014, the Board of Supervisors implemented an Earned Income Tax, a measure that was seen by many on the Board as a last resort for dealing with revenue issues in the General Fund.

The starting salary for an officer in Middletown Township in 2014 is \$59,800. The total cost of this officer including benefits is a staggering \$121,600. After three years, this officer will make \$79,000 and will cost taxpayers more than \$135,000. The average wage of a Middletown Police officer is **\$107,000** compared to the average township resident at **\$52,142**

The Township's minimum municipal obligation for the police pension fund in 2014 is more than \$2,000,000. The January 1, 2013 actuarial valuation of the police pension fund shows an unfunded actuarial liability of \$8,441,184.

And so, although Middletown Township is not categorized as financially distressed, its financial challenges are more than significant.

Middletown's experience with Act 111 Arbitration

Our Act 111 Arbitration story is not unlike many stories that you have heard across the Commonwealth. The process is broken. It drags on for far too long, in Middletown's case, nearly two years. It is extraordinarily expensive for the taxpayers and requires the commitment of vast quantities of municipal resources.

The most flawed aspect of the current Act 111 Binding Arbitration process is that it is inherently biased toward unions, primarily because of the fact that the entire process is placed in the hands of an impartial or neutral Arbitrator with no real big-picture understanding of the municipality and without any level of accountability.

Timing.

In Middletown's circumstances, the inability to find common ground in negotiation sessions was reached in the spring of 2011. A final award was not received until May of 2013 – a full two years later.

During this two year time period, two budget cycles passed. The management of the police budget and the overall budget were basically in a holding pattern. Officers were not replaced during these years and no new initiatives moved forward as we lived in fear, knowing that the Arbitration Award could easily result in the need for a major tax increase or a change in the service level provided to our residents.

Process is inherently biased toward union.

Because the union does not share in Arbitration fees, there is no motivation to settle. There is no financial risk for the union. Middletown Township paid more than \$20,000 to the neutral Arbitrator for its Binding Arbitration process.

The selection process for the neutral Arbitrator also favors the union. When you combine the fact that the list of neutral Arbitrators includes only three possibilities with the requirement that the municipality must make the first strike to the list, you end up with a process that always gives the union the final selection of the neutral Arbitrator. Expanding the list from three to seven, as proposed by the legislation, would significantly level the playing field in this area.

Another important factor to consider is that the income of the neutral Arbitrator is directly linked to being selected. This results in a process that is motivated by a desire to not offend the side that gives the Arbitrator the most repeat business. There is a common perception that the process is biased and that Arbitrators do not want to be seen as favorable to management.

There is no accountability woven into the process. The hearings and executive sessions are held behind closed doors without the grounding factor of public oversight. The awards issued by neutral Arbitrators do not include any justification for decisions.

In the Middletown case, the award included restoration of a management right that would allow the township to control escalating overtime costs. To compensate for providing an item that was pro-management in the award, the neutral Arbitrator awarded a rank differential for Sergeants, an item that was never included in the union's list of proposals.

Costly Process

The cost of Act 111 Arbitration has become exorbitant. Beyond the value of the countless hours of staff time invested into the process over two years, there are costs for consultants, labor attorneys and for the neutral Arbitrator.

In Middletown's example, Labor counsel costs amounted to \$173,000 over the two-year time period. Other consultant costs were more than \$5,000 and the fee paid to the neutral arbitrator was \$20,790.

The changes proposed in HB 1845 and SB 1111 will help to fix the system that is now broken while still providing a fair process for the important public safety employees that serve our communities.