

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

HOUSE VETERANS AFFAIRS &
EMERGENCY PREPAREDNESS COMMITTEE

STATE CAPITOL
HARRISBURG, PA

IRVIS OFFICE BUILDING
ROOM G-50

TUESDAY, AUGUST 20, 2019
1:02 P.M.

PRESENTATION ON
HOUSE BILL 759
FIRE DEPARTMENT REIMBURSEMENTS

BEFORE:

HONORABLE STEPHEN BARRAR, MAJORITY CHAIRMAN
HONORABLE LYNDA SCHLEGEL CULVER
HONORABLE FRANK A. FARRY
HONORABLE MATT GABLER
HONORABLE MARK M. GILLEN
HONORABLE TODD POLINCHOCK
HONORABLE JIM RIGBY
HONORABLE FRANCIS XAVIER RYAN
HONORABLE CHRIS SAINATO, DEMOCRATIC CHAIRMAN
HONORABLE CAROL HILL-EVANS
HONORABLE CHRISTINA SAPPEY
HONORABLE JOE WEBSTER

TESTIMONY of: MR. SAM MARSHALL, PRESIDENT AND CEO
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Pennsylvania House of Representatives
Commonwealth of Pennsylvania

1 And it doesn't mandate -- and I appreciate that
2 we were invited here as insurers for comments on the bill.
3 Just in the drafting of the bill -- and I've been around
4 the block on insurance bills of all shapes and sizes for a
5 while -- it doesn't mandate that insurers, whether their
6 auto or homeowner or property, whether it's personal or
7 commercial, it doesn't mandate that they cover it. It
8 allows the fire company to bill an insurer. It doesn't
9 require an insurance company to provide that coverage to
10 our policyholders.

11 I think you faced similar issues in balances when
12 you dealt with local police departments charging for
13 emergency responses. You addressed that by passing Act 69
14 of 2007. That actually prohibited local police from doing
15 this and noting the same issues we're raising today. We
16 ask why the change here?

17 Now, we realize that the financial problems of
18 volunteer fire companies are real, and we are not shrinking
19 away from our commitment to them. Historically, that's
20 been done through the dedication of a large portion of
21 insurance premium taxes, those based on foreign fire
22 premiums with those taxes going to the fire insurance tax
23 fund. We've heard that revenue has been declining, and
24 proponents have said the bill is needed to fix that. And,
25 as was noted in the panel before, there's a rumor -- and I

1 think it should be a fact -- that that's going to be coming
2 up.

3 We noted that's part of Recommendation 13 of S.R.
4 6 in the S.R. 6 report. We do think more analysis on that
5 tax question is needed. Recommendation 13 said the revenue
6 from this tax is declining and that between 6 and 7 million
7 fewer insurance policies were being subject to the tax in
8 just the past two years. It suggested that that's because
9 insurers are taking advantage of a loophole and that they
10 self-report. I can tell you something's missing there.

11 We've attached to our testimony a chart for the
12 past decades. And it shows that the tax revenue here has
13 been fairly consistent. One year was way up and another,
14 you know, just in the recent past, was down, but there's
15 not a declining trend in that. Maybe that premium tax
16 formula needs adjustment, but I don't know that you embark
17 on a bill because of a flawed understanding of those tax
18 revenues.

19 We do hear the concern of local fire companies
20 being called on to help with trucking accidents on I-80 or
21 similar roads, and, you know, imposing burdens on the local
22 companies that don't benefit their communities. That's a
23 legitimate complaint. I don't know that the bill will
24 address that. Again, it isn't written as an insurance
25 requisite. And even if it were, it wouldn't apply to a

1 much goes into that fund. I can't tell you where the money
2 goes from there. It's a little interesting. Even in the
3 year that was down, by our calculations, the fund generated
4 even in that off year -- usually, it's up in the \$85
5 million zone. But that year, 2016/17, it was at \$63
6 million. At the same time, we notice the Auditor General
7 had a press release with considerable fanfare saying it was
8 releasing \$55 million to fire companies across the
9 Commonwealth. I have no idea what happened to the
10 remaining \$8 million.

11 So, you know, you can see what we pay in taxes
12 that are meant to go to volunteer fire companies. How much
13 of that is apportioned to fire companies and where it goes
14 is a legitimate question. And if there's some adjustment
15 to that tax revenue, that makes a lot of sense. And I say
16 because I talk about a consistent revenue stream. I think
17 the tax revenue overall is fairly consistent.

18 I would note from an insurance perspective, you
19 know, particularly when you're dealing with rural areas,
20 you know, how many claims you get in a given year can vary
21 greatly. You may have 100 claims, you may have 300 claims,
22 it may go down to 150 claims. It's hardly a static number.
23 You know, to that end, I think that for any volunteer fire
24 company and frankly for any business, you actually want a
25 more stable revenue stream. And I think the tax stream and

1 truck or a car registered and insured in another State.

2 That opens the suggestion we do have in
3 Pennsylvania a pretty hefty gas tax. Why isn't some of
4 that dedicated to this? And I'd also look at vehicle
5 licensing fees. Why aren't some of those dedicated to, you
6 know, volunteer fire companies?

7 I know there's been some legislative effort. You
8 know, we collect more -- the State, and I'm sorry when I
9 think we -- but the Commonwealth collects more in, for
10 instance, MVR fees and the like than it uses. You know,
11 there's a bill saying, hey, let's start reducing that. You
12 may want to consider rather than just a pure reduction of
13 that dedicating some of that funding to the volunteer fire
14 companies. I think it's particularly appropriate in things
15 like in I-80 and the roads, you know, the concern that you
16 have there.

17 I know, for instance, we as insurers have been
18 paying for number of years on motor vehicle records. We
19 pay an added surcharge to PennDOT. It started at \$2. It
20 was supposed to be so PennDOT could upgrade its computer
21 system. I believe the computer system is updated. I also
22 know that the \$2 surcharge remains in place. I have no
23 idea where the money goes, but I'd recommend somebody take
24 a look at it.

25 And also on the tax revenue, you know, that's how

1 a volunteer fire company, that can become more trouble than
2 it's worth because, you know, driver A says it wasn't my
3 fault and driver B says, yes, it was. You know, and then
4 all of a sudden everybody's waiting on a he said/she said,
5 and you get caught into that trap. So, again, I mean, for
6 consistent funding, it seems that that might be better done
7 for the social good.

8 And it's in particular under this bill -- and I
9 think correctly -- this bill says, here, you pay for the
10 cost except for the [inaudible]. And, you know,
11 determining those costs, you know, I mean, you know, as
12 some people mentioned, you know, whether you have 50 calls
13 a year or 500 calls a year, you may need the same
14 equipment. You may have those same operating costs because
15 you need that equipment to answer the needs of your
16 community. Does that mean that in the area where you have
17 50 calls a year the costs are a lot higher than where you
18 have 500? Those are tough questions.

19 REPRESENTATIVE DUSH: Sam, I know others are
20 going to have questions. I'll circle back with you at the
21 end. Thanks.

22 MAJORITY CHAIRMAN BARRAR: Thank you. Great.
23 Thank you. Representative Farry.

24 REPRESENTATIVE FARRY: Thank you, and thanks for
25 being here, Sam. A couple things. Although billing was

1 not a recommendation in the S.R. 6 report -- and I sit on
2 that commission -- in the appendix where it lists the
3 legislative priorities that we put together last session,
4 we did include that. And I know from sitting on that
5 commission the Representatives there are certainly in
6 support of Representative Dush's legislation.

7 A couple quick things. So when we actually
8 talked about this four years ago, I thought there was
9 written into some of the homeowners and automobile policies
10 like a flat amount for emergency services, like a \$500 fee
11 that was written in of coverage for, you know, fire
12 response to a vehicle accident, vehicle fire, structure
13 fire. But I thought you just said there actually isn't
14 coverage for that.

15 MR. MARSHALL: I don't think it's uniform.

16 REPRESENTATIVE FARRY: Okay.

17 MR. MARSHALL: You know, I think in the past
18 there have been -- and that's almost been more for a
19 contribution as opposed to, hey, this is what we'll pay for
20 your liability. But it also goes into the question of is
21 your local municipality holding you personally responsible?
22 And that gets into the question that we were just talking
23 about with Representative Dush. It's one thing to say,
24 hey, we'll bill you if you have insurance, but if you
25 don't, we won't.

1 You know, generally, as insurers, we cover the
2 liability of our policyholder. If our policyholder isn't
3 liable, we don't assume liability. And I think that's
4 always been, you know, one of the key challenges there.

5 REPRESENTATIVE FARRY: Would you be able to talk
6 to your main, you know, State Farm, you know, the members
7 of your organization, your main insurance and see if they
8 do have that written into their policies?

9 MR. MARSHALL: Yes. Yes.

10 REPRESENTATIVE FARRY: And get it for vehicle,
11 for homeowners, that would be great.

12 I think part of the impetus of this bill -- and I
13 think we heard a little bit from the previous panel -- is
14 the costs that are incurred because of what we protect. So
15 my fire department, we protect Interstate 95 and Route 1
16 superhighway. Between the two highways, we're out there at
17 least once a week. So not only are we on scene at
18 accidents that require a significant amount of time of
19 investigation, which we're sitting there burning fuel, but
20 we're also throwing down Oil Dri. Representative Dush
21 mentioned PIGs. We're using all kinds of absorbent
22 materials.

23 And the person that's responsible for that
24 accident in most cases is not somebody from our community
25 that's either paying a fire tax or making a donation to our

1 fire company, and we're actually incurring costs. The
2 money we get from our local governments and our donations
3 create a state of readiness for us. We have the fire
4 trucks there, we have the gear, we have the equipment, and
5 then when somebody actually has an at-fault incident -- we
6 used an accident as an example -- you know, we're incurring
7 additional costs above and beyond that. And they're
8 certainly not somebody that's funding our department.

9 We would certainly love the opportunity -- even
10 if we can't recoup the hours for the apparatus, which would
11 be great, we certainly wouldn't be able to recoup the
12 actual expenditures from the equipment that was used that's
13 expendable equipment. It's not like an Air-Pak where the
14 bottle is going to get refilled and it's going to go back
15 on the truck and we're going to use it next time. We're
16 actually using a lot of expendable equipment. And the
17 author of the bill can correct me if I'm wrong, but I think
18 that's some of the cost that they are looking to recover.

19 Additionally, when we go fight that house fire
20 and the hose line ends up getting a hole in it, whether it
21 got burned through or broken glass or whatever, they're
22 very expensive to replace. And they're the kinds of items
23 that I think we want to be able to bill for just so we can
24 recover the costs and get the equipment back on the truck.
25 We obviously have spare equipment to be put on the truck in

1 the meantime, but we do have to order more hose then or
2 more Oil Dri. So I think that's part of where this is
3 going.

4 MR. MARSHALL: And, Representative, on that --
5 and I -- I mean, as I mentioned and I'll stress again, we
6 appreciate that, you know, but understand that, you know,
7 particularly when it's on anybody who's driven on I-80
8 knows, you know, that tends to be where I've always run
9 into that. But on the turnpike, it can happen on a toll
10 road as well as a non-toll road, but an interstate. But
11 that vehicle that may have caused the accident or been in
12 the accident is just as likely to be out-of-state. It's a
13 truck going through or motorist going through -- as it's
14 going to be in-state.

15 If you're dealing -- and depending -- even if you
16 rewrote this bill to make it a clear insurance mandate, it
17 wouldn't apply to a motorist from another State. That's
18 why I think for that area -- and I think that's a specific
19 -- I mean, I realize there's a broader problem, but that's
20 a specific subset of the problem.

21 I do think that in particular that's something
22 where, you know, we had the second highest gas tax in the
23 country. You know, there couldn't be some level of
24 dedicated funding from that? You know, our MVR fees are
25 now -- they used to be low. They're now way up there. And

1 then we have an added \$2 surcharge. You couldn't have
2 something from that? That would be, to me, a much more
3 stable basis of funding.

4 REPRESENTATIVE FARRY: Yes, I think it would just
5 be difficult to get at that pot of money because, you know,
6 you've been up for many a budget season, so -- but I get
7 your point, and I heard what you told Representative Dush
8 previously.

9 MR. MARSHALL: And, you know, understand, I mean,
10 look, you can mandate it, but appreciating Representative
11 Dush's point about the constituents in his area have seen,
12 you know, their incomes go down. Okay. But this is going
13 to raise their insurance costs. It's going to raise their
14 insurance costs. I mean, you know, it doesn't -- I don't
15 believe that this is an instance where insurance companies
16 have been collecting premium for this and somehow not
17 paying it. That I would dispute.

18 You know, so this is -- I mean, you're exactly
19 right. It's hard to get money out of anything. I mean,
20 you know, it's not like our policyholders say, boy, we're
21 happy to pay an increase in premium. So I sympathize with
22 your concerns there. But I do know that, you know, there
23 are bills bouncing around in the General Assembly saying,
24 hey, some of those excess fees we want to get the money
25 back and we're trying to expedite that. It may be that

1 rather than giving the money back you may want to dedicate
2 some of that funding to this. You also may want to
3 readjust some of the tax revenues, you know, how much of
4 this should be going to the pension versus should be going
5 to the volunteer fire companies is a legitimate concern.

6 REPRESENTATIVE FARRY: And that's a good lead-in.
7 With the revenue for the relief funds, the foreign
8 insurance tax, just to run through some quick numbers, so
9 '11, '12, your stats from the Department of Revenue, there
10 was \$78 million collected, only \$63 million went to the
11 volunteers. The next year 87 collected, 72 to volunteers;
12 84 collected in '13, '14, 68 to the volunteers; 81
13 collected the next year, 65 to the volunteers; 80 collected
14 the next year, 65 to the volunteers; 63 collected the next
15 year, 60 to the volunteers; 89, almost 90 collected in
16 '17/'18, only \$55 million to the volunteers.

17 MR. MARSHALL: Yes.

18 REPRESENTATIVE FARRY: So you can see that
19 declining, you know, 72, 68, 65, 65, 60, and 55. And,
20 again, that's why the S.R. 6 Commission discussed it at
21 length. The Chairman and I were in a meeting earlier today
22 with Revenue trying to figure that out, but that's a
23 significant drop in taxes that are being collected with the
24 intent of helping the volunteers, and we're trying to find
25 where that money is going. It's being collected --

1 MR. MARSHALL: Yes, because actually it's not a
2 significant drop in the taxes being collected. It's a
3 significant drop --

4 REPRESENTATIVE FARRY: In the distribution.

5 MR. MARSHALL: -- in the distribution of that tax
6 collection. And, as I mentioned before, I get involved
7 with the taxes that come to you. After they come to you,
8 you guys really don't consult with us that much, but I'd be
9 very curious as to what's happening to that money.

10 REPRESENTATIVE FARRY: Sure. Do you know why in
11 '16/'17 collections went from 80 the previous year to \$63
12 million?

13 MR. MARSHALL: No, and frankly I don't know why
14 they went up in 2010, '11. You know, there was a spike
15 there. It may have been that a given carrier reported on a
16 different time frame, something like that. I would have
17 been -- if it hadn't bounced right back up the year after,
18 I'd be more -- I'd say, gee, did somebody come, you know,
19 go from being a foreign company to a domestic company or
20 something like that? But that may be. And again, you'd
21 have to consult with the Department of Revenue and maybe
22 the insurance department as to why that went down.

23 REPRESENTATIVE FARRY: Okay. All right. Thank
24 you. I appreciate it.

25 MR. MARSHALL: Thank you.

1 doesn't then bill the individual for putting out the fire.
2 That's what the individual pays property taxes for.

3 REPRESENTATIVE RIGBY: Thank you.

4 MAJORITY CHAIRMAN BARRAR: One last question,
5 Sam. If we amended the bill to make an insurance company
6 law bill, would you support the legislation?

7 MR. MARSHALL: No.

8 MAJORITY CHAIRMAN BARRAR: Okay.

9 MR. MARSHALL: And again -- but, I mean, I'd at
10 least know what it is you meant to do. And you could pass
11 it and, you know, I mean, frankly, as an industry, we'll
12 adapt to it one way or the other. I mean, we'll raise
13 premiums if we have to raise premiums, but I think that --
14 and, you know, I say no and somebody says, okay, so you
15 don't want to help out volunteer fire companies? That's
16 not it at all. What we're suggesting, what we're
17 advocating is that you come up with a way that provides
18 frankly a quantifiable stable source of revenue that
19 addresses -- because their needs vary from company to
20 company and from region to region, that you do it in that
21 more objective fashion.

22 And I think -- I mean, I've outlined -- you know,
23 we've talked about it and Representative Farry mentioned
24 the disparity between what we pay in taxes and what somehow
25 isn't going into, you know, the wallets of the volunteer

1 fire companies. I have no idea why that variance is.
2 We've outlined some other revenue sources that are out
3 there that may be appropriate. You know, you can always --
4 you know, you can dedicate a portion of some other segment
5 of the insurance premium --

6 MAJORITY CHAIRMAN BARRAR: Yes, but that's not
7 what this bill is about. You've gone off track on the
8 bill. The bill isn't about providing a permanent revenue
9 source to the fire companies. It's about allowing them to
10 bill for a service they provide when they provided.

11 MR. MARSHALL: Okay. I --

12 MAJORITY CHAIRMAN BARRAR: If they provide it.

13 MR. MARSHALL: I thought from listening to the
14 panel before the need for the bill is that our volunteer
15 fire companies need money. I mean, they need other things.
16 They need volunteers, too, but they need money.

17 MAJORITY CHAIRMAN BARRAR: You're --

18 MR. MARSHALL: And that added revenue --

19 MAJORITY CHAIRMAN BARRAR: Yes.

20 MR. MARSHALL: -- and so in that sense --

21 MAJORITY CHAIRMAN BARRAR: But your answering a
22 question by saying that, well, we needed to propose
23 permanent sources of revenue. Well, I would still think
24 even if we had a permanent source of revenue, they're
25 entitled to be reimbursed for a service they provide.

1 firefighters that I see getting awards, you know, for
2 responding to over 300 fires in a year.

3 And so, I mean, there are companies out there
4 that are putting out a tremendous amount of dollars on
5 their own to respond to -- I mean, if you're responding to
6 300 fires a year, you know, you're a busy fire department.

7 MR. MARSHALL: And presumably, you're getting a
8 fair amount of money, but again, that's a question for this
9 Committee. But presumably, you're getting a fair amount of
10 money from the fire tax. That's what it's meant for. It's
11 what it's there for. And if there needs to be --

12 MAJORITY CHAIRMAN BARRAR: But we're not.

13 MR. MARSHALL: -- a greater allocation --

14 MAJORITY CHAIRMAN BARRAR: It's obvious.

15 MR. MARSHALL: What?

16 MAJORITY CHAIRMAN BARRAR: We don't have a fire
17 tax. We have the fire relief taxes that we're talking
18 about.

19 MR. MARSHALL: I apologize. That's paid --

20 MAJORITY CHAIRMAN BARRAR: Okay.

21 MR. MARSHALL: That's paid by us as a tax.

22 MAJORITY CHAIRMAN BARRAR: No, it's paid by the
23 ratepayers.

24 MR. MARSHALL: Ultimately, yes.

25 MAJORITY CHAIRMAN BARRAR: You collect it and

1 send it to us.

2 MR. MARSHALL: In the same sense that any cost to
3 impose on us is paid by the policyholder.

4 MAJORITY CHAIRMAN BARRAR: Yes.

5 MR. MARSHALL: So you're right. I mean, if
6 there's going to be increased money, it's got to come
7 ultimately out of the pockets of citizens, whether we're
8 the conduit or you're the conduit. The question is how
9 much money and how's it going to be apportioned? And I
10 would suggest that it would be -- because we are just as
11 committed as anybody else to the well-being of the fire
12 company system in Pennsylvania. We depend on it, too. I'd
13 suggest that you'd be better off having a more stable
14 revenue source than the somewhat random source that can
15 happen particularly in rural areas where you're saying,
16 God, it all depends on how many claims I get in a given
17 year because that can go way up and way down. I hope it
18 goes way down.

19 MAJORITY CHAIRMAN BARRAR: Yes. Thank you.

20 MR. MARSHALL: Thank you.

21 MAJORITY CHAIRMAN BARRAR: Any other questions
22 from Members?

23 Sam, thanks for being here today. We appreciate
24 your testimony.

25 Okay. Where's my glasses? Here we go. Our next