

Good afternoon, Mr. Chairman and committee members.

My name is Mark Docherty; I am the President of the Michigan Professional Fire Fighters Union and a Sergeant with the Sterling Heights Fire Department.

Thank you for allowing me the opportunity to testify before you today on behalf my organization and the over 5000 firefighters it represents. Our firefighters are serving on the front lines protecting 130 different communities throughout the state of Michigan.

I come before you today to express our opposition to HB 4522.

I am here today to provide our perspective on PA 312 and what effects this bill will have on our members and our communities.

P.A. 312 was adopted into law to provide for an "...alternate, expeditious, effective and binding procedure for the resolution of disputes" involving municipal employers and firefighters, police officers, emergency medical services and emergency dispatch personnel.

The Act was put in place after a series of strikes by police officers and fire fighters in the late 60's. PA 312 was carefully studied, tested and analyzed before Governor George Romney signed it into law. It has succeeded in its intent, resulting in no strikes or work stoppages occurring throughout the 42 years the law have been in place.

P.A.312 continues to perform as intended. The intent of this law is to resolve contract disputes fairly and equitably, and eliminate strikes or work stoppages by public safety providers.

This enables us to remain on the streets and fully focused on the job of keeping our communities safe.

One misconception that we continually hear from opponents to PA 312 is that it is frequently used by firefighters and police officers to settle contracts. This is absolutely not true.

In fact the law is seldom used.

In 2010, out of hundreds of counties, cities and townships negotiating agreements in good faith with their police officers and firefighters, only 28 entered into binding arbitration. And of those 28 cases, the employer, not the firefighters or police officers, won more than 60 percent of the time.

Most communities have not utilized PA 312 for decades and some never have. My own department has not been to arbitration in over 23 years.

Recent research on arbitration awards over an 11 year period, 1999-2010, shows that more than 95% of all labor contracts for firefighters and Police officers are settled at the negotiating table.

Most contracts are bargained in good faith never reaching an impasse and never requiring binding arbitration.

The law was never intended to be used frequently. Neither side wants to go to arbitration and have a 3rd party decide their issues.

Although, if the process is needed then both parties need to be assured that the process is fair and that it will resolve the impasse.

Otherwise, police and firefighters will not have confidence in the system and will possibly resort to other methods to resolve the impasse such as work stoppages, which is exactly what the law was intended to prevent.

This bill is not a fair resolution procedure. It will gut the fairness of the Act rendering the Act useless.

One way the bill does this is by changing the definition of "Ability to Pay".

P.A. 312 already takes into consideration the employer's ability to pay, the Act clearly states that ability to pay **MUST** be evaluated and considered in each arbitration award.

Section 9, subsection (c) of the Act clearly states that the "...arbitration panel shall base its findings, opinions and order upon the following factors, as applicable... (c) The interests and welfare of the public **and the financial ability of the unit of government to meet those costs.**"

The language regarding ability to pay has been in the law since its inception and stipulates that the arbitrator must consider the economic impact of any award.

HB 4522 alters that definition of "Ability to pay" and creates what is best phrased as a "Willingness to Pay".

Our organization fully supports the requirement that an arbitrator must consider "Ability to Pay". It only makes sense that a community be able to afford the award given. What we don't support is a communities "willingness to pay". This will only cause games to be played in which employers will hide money in an attempt to not bargain fairly.

Under the current Act, the process does work and consists of an employer providing a case to the arbitrator outlining why they do not have an ability to pay.

This is achieved through thorough analysis by experts, such as a municipality's independent auditing firm, which is used in determining the employers' finances before the beginning of the arbitration hearings.

Arbitrators thoroughly examine the municipality's finances, using information provided to them by both parties, and make their final decision based on the economic status of the municipality.

Another issue with HB 4522 is that it makes internal comparables for wages and benefits a priority over external comparables.

What this means is that a fire fighters wage and benefits are compared to other general employees before it's ever compared to actual fire fighters.

This is very disturbing in that a fire fighter would now be compared to a secretary for example. Our job is a 24 hr a day emergency service in which the work we perform carries a high risk of injury or death. Life and death decisions need to be made at a moment's notice to save lives. It is NOT fair to compare our jobs to any other jobs outside of police and fire that are not subject to the daily hazards and threats to life or limb that we are.

As the current act requires, it first compares fire fighters to other fire fighters in communities of similar size and demographics then takes into account internal comparables. This external comparable list is almost always agreed to by both employer and employee groups.

If no agreement can be reached, the arbitrator will provide a list of comparables after both sides have provided testimony on the subject.

It is the only fair and just method to compare wages and benefits of fire fighters and police officers.

This bill also adds language on consolidations and essentially ties the hands of the fire fighters and police officers, allowing employers to only show a cost savings to require an arbitrator to mandate the consolidation. It does not allow the ability of the arbitrator to take into account the testimony from the police and fire fighters on this issue or even consider the "interest and welfare of the community" when making his decision. Something the arbitrator must do in any other decision they make.

I have testified over and over again on the fact that our organization supports and seeks consolidations amongst departments that would benefit from it.

Although again, as we have seen in other bills, this bill only seeks to discourage consolidations from our side. This is an important issue, one in which needs legislation to encourage consolidations by all parties to get this done.

We understand the economic reality that our communities are facing and we understand that concessions need to be made. In fact, fire fighters and police officers, all across the state are giving concessions, many of which are while under an existing contract.

Unlike other professions, when we lose personnel to layoffs, we now have to perform the same hazardous job with fewer personnel.

This greatly increases the risk we face and the chances of us getting injured or killed on the job.

Many police and fire unions all across the state have stepped up and provided the much needed savings to keep our members on the job. For example, in 2010, Ann Arbor firefighters agreed to concessions that allowed 13 firefighters slated for layoff, to remain on the job and Holland firefighters in 2009, provided concessions to also protect their staffing levels and prevent layoffs. These are just two examples of hundreds that we could cite that have occurred all across the state.

My own local just voted 2 weeks ago to open our contract and give a 10% wage concession to help our city balance their budget.

If PA 312 is amended to the point that it no longer provides a fair impasse resolution then it would set the state back decades and will jeopardize the safety of the public.

As with any law that has been in place for decades, a review may be justified. We are willing to consider and have suggested potential reforms to the law and have also worked to address the concerns local municipalities have had concerning consolidation into authorities.

We are willing to sit at the table and have honest debate as to where we can make the law more efficient, although this bill goes way too far.

This law was put in place in 1969 as a public safety issue and remains to this day as a public safety issue.

We ask you today to NOT pass HB 4522 as this bill goes' too far. The current law is working as intended and needs to remain in place for the safety of our firefighters and police officers and the citizens that depend on us.

I want to thank the Chairman and the committee members for this opportunity to address the committee today.

And I would be happy to answer any questions that you may have.