A Report from the State Fire Advisory Board

To the Governor, the State Fire Commissioner, the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, the Veterans Affairs and Emergency Preparedness Committee of the Senate, the Speaker of the House of Representatives, the Majority Leader of the House of Representatives, the Minority Leader of the House of Representatives, and the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives

On the Matter of Fireman's Relief Reform
As Required by P.L. 739, No. 91, October 29, 2020

November 2023

Background

Act 91 of 2020 directed the State Fire Advisory Board to undertake study of Fireman's Relief – specifically the Fire Relief Funding Formula and Fire Relief Services -- and issue report on findings and recommendations no later than November 30, 2022. Subsequently, Act 104 of 2022 extended the deadline for the report until December 31, 2023. (Amendment to Title 35 adding §7419.1 by P.L. 739, No. 91, Section 14.)

Fire Relief, in its current form, was originally established under Act 84 of 1968 (1968, P.L.149, No. 84). Funded by the 2% tax on foreign fire insurance premiums, the primary purpose of the program was, and is, to protect volunteer firefighters and their families from catastrophic loss resulting from their service as firefighters. The most common form of risk mitigation has been, and continues to be, insurance protection that supplements state mandated municipal workers compensation. Over the decades, since its inception, the Fire Relief program has expanded to include training, equipment, recruitment and retention efforts, and programs to help reduce firefighting risk and prevent catastrophic loss. Funds are distributed to fire departments via Relief Associations, and allocations are based on the population and assessed value of property protected by the fire departments. In 1984, Fire Relief was amended to further support state pension aid (1984, P.L. 1005, No. 205, §102). Since 1984 the foreign fire insurance monies also continue to be used to fund state pension aid to municipalities for police, firefighters and other eligible municipal employees.

The 2022 Amendments to the Tax Code (Act 53 of 2022), fixed the allocations of the foreign fire insurance tax as follows: the greater of $345MM or 38% to the Pension Fund, the greater of $85MM or 8.5% to Fire Relief, with the remainder to the General Fund [53.5%]. (2022, P.L. 513, No.53, Section 7 (b.1).)

Despite decades of piecemeal adaptation, Fire Relief is failing to meet the needs of the Pennsylvania Fire Service. Ninety percent of respondents to a 2021 PFESI survey supported significant relief reform and offered over 450 specific suggestions to do so. At the request of the State Fire Commissioner, the Pennsylvania Fire and Emergency Services Institute (PFESI) conducted a follow-up survey in 2023 which found that 27% of fire departments across the Commonwealth did not receive enough funding to provide insurance protection to their firefighters. Allocation data for 2022 shows that 47% of all distributions were under $10,000; 26% were under $5,000, and 3.5% were less than $1,000.

Executive Summary

As noted, Fire Relief is failing to meet the most basic needs of the Pennsylvania Fire Service. Throughout 2023, the State Fire Advisory Board has studied this matter and has developed a legislative framework for meaningful reform. The recommendations for reform have been presented and discussed at meetings held in all 9 of the Advisory's regions (over 300 people participating). These recommendations were further vetted via web access facilitated through PFESI where specific questions and suggestions were accepted. From these vetting sources, 48% of respondents have offered unqualified support for these recommendations and 94% of respondents have offered general support (support with a further suggestion). Only 6% of all those offering an opinion on this matter generally do not support these recommendations with 2% preferring to leave Fire Relief 'as is'.

The State Fire Advisory Board offers the following recommendations for Relief Reform:

1. Maintain the Foreign Fire Insurance Tax at the current rate of 2%.

2. Eliminate the requirement for separate Relief Associations. Removing the association requirement would reduce administrative expenses related to 501 (c) maintenance and the bonding of association officers. Elimination of such overhead expenses would result in more funds available to directly support people and mission. This recommendation does not require the dissolution of any relief association. Fire departments and relief associations would determine the best business arrangement for their specific circumstances. This recommendation does not propose to excuse any organization from obligations made to relief association and/or fire department members. Such obligations include but are not limited to, earned benefits due to length of service, self-administered life insurance programs, etc. This recommendation does not propose to increase the number of eligible fire departments receiving Fire Relief funds.

   Note: Section 8 of the current Act "Dissolution" remains in force for any relief association dissolved by virtue of the conditions described therein (1968, P.L. 149, No. 84, §8).

3. Assure existing relief assets remain in the community. The assets of an existing relief association that is disbanded or diminished in role, shall revert to the fire department supported by that relief association. In cases where an association serves multiple fire departments, the assets shall be divided in a fair and equitable manner with the approval of the municipality(ies) being served by the relief association. (Relief assets are community assets, funded by the taxpayer. Fair and equitable distribution will vary based on community needs, fire department operational structure, and other factors. Hence, municipalities should represent taxpayers as the arbiters of asset distribution.)

4. Eliminate the existing, piecemeal limitations on eligible expenditures. Require fire departments (or associations) to fund supplemental insurance protections and pensions (as described herein). Once these basic obligations are met, any remaining funds should be available to support the overall mission of the department.

5. End the restriction that selectively withholds the benefit of relief funds based on employment status of individual department members. "Combination"

departments, where a mix of paid and volunteer personnel are serving the community, are Pennsylvania's future. For volunteer departments with paid personnel and/or volunteer departments interspersed with municipal employees, all personnel should be entitled to benefit from Fire Relief support, particularly with regard to equipment, training, and personal protection.

6. Require fire departments individually or through relief associations to protect members as described in Section 2 of the current Act (1968, P.L. 149, No. 84). This will ensure the primary purpose of Fire Relief, the catastrophic loss protection of firefighters, is maintained by requiring organizations to secure risk protection in the form of insurance supplemental to municipal workers compensation. The most common forms of such insurance are policies for accident and sickness, accident and health, or accidental death and dismemberment.

7. Require fire departments supplementing volunteers with paid staff to provide pension benefits in a manner consistent with the municipality they serve. Typically, a full-time position (over 35 hours per week) is expected to include a retirement benefit. Benefits for part-time positions (less than 35 hours per week) shall be handled in accordance with the prevailing practices of the municipality served.

8. Continue to permit the investment of funds to satisfy future obligations and/or fund projects that involve large expenses. Examples of such projects include but are not limited to, apparatus replacement, SCBA replacement, replacement of PPE, and replacement of communications equipment. (Reference current Act [1968, P.L. 149, No. 84, §6].)

9. Assure Fire Relief funds are used to directly support personnel and mission by prohibiting expenses related to operating profit-generating businesses, department fundraising programs, and capital expenses primarily related to a fundraising purpose (examples: social hall or hall refurbishments, social clubs, rental property).

10. Establish annual eligibility requirements to ensure active, operating departments are receiving funding. Requirements include:

    a. Report all responses through PennFIRS.
    b. Report to the OSFC the point of contact for the department (Chief and/or President)
    c. Be formally recognized by municipal ordinance or resolution that the fire department is the provider of fire protection for one or more municipalities.

d. Be registered with the appropriate Public Safety Answering Point as an active response agency. (Department must appear on active box cards/response assignments.)
e. Must meet at least annually with the municipality(ies) served by the department.
f. Submit to audits as described in Section 7 of the Act (1968, P.L. 149, No.84, §7).
g. Maintain a roster of all active personnel (persons responding to incidents).
h. Maintain a roster of all non-active personnel eligible to receive benefits.
i. Department must respond to a minimum of 70% of the incidents to which the fire department is dispatched each year prior to the allocation year. (Compliance verification will require assistance from Public Safety Answering Points and/or municipalities. A system for performance improvement should be established for failing departments, however, it is intended that corrective measures should be attainable within a year. Beyond a year, viability is suspect.)

11. Establish a minimum allocation of $10,000 annually to each eligible fire department. (Once minimum distributions are made, the remaining funds would be allocated in accordance with the existing allocation formula, which is based on population and assessed value of property.)

12. Increase the Fire Relief share of taxes from 8.5% to 20% ($170MM minimum) by reducing the General Fund share from 53.5% to 43.5%. The pension share is unchanged. (This guarantees sufficient funding to enable all departments to meet the required risk mitigation and pension requirements, while holding formula-based allocations close to current levels.)

During the vetting process for these recommendations, other suggestions were received and considered. The State Fire Advisory Board believes the 12 recommendations presented herein are necessary at this time, and that a second review of Fire Relief should be undertaken after the first full year of enacted reform.

Activity related to improving Foreign Fire Insurance tax collections should continue independent of these reform recommendations. (Exemptions, self-insurance, noncompliance).

Respectfully submitted on behalf of the Fire Advisory Board,

Thomas G. Cook, State Fire Commissioner
Chairperson, State Fire Advisory Board