

**Testimony from Brian M. Daniels, Executive Director
In Support of Reforming Firefighter Overtime (H 6156)
House Committee on Labor – June 9, 2021**

Thank you, Madam Chair and members of the committee, for the opportunity to testify on this critical piece of legislation. We support H 6156 and appreciate Representative Morgan’s ongoing efforts to address this issue. Two years ago, the League opposed passage of the new overtime standard for firefighters, and we are already starting to see the impacts of that law on our communities’ finances.

When we testified against the firefighter overtime bills two years ago, several towns were using a three-platoon structure for firefighter scheduling, which was entirely permissible under the Fair Labor Standards Act (FLSA) – the Federal law and regulations that govern minimum wages and overtime. FLSA specifically allows higher overtime thresholds for police and firefighters than the standard 40 hours. Under FLSA, firefighters are not required to receive overtime unless they have worked more than 212 hours in 28 days. The passage and enactment of a law requiring a 42-hour workweek for firefighters in Rhode Island appears to be the only one of its kind in the nation, and it is now having an adverse impact on municipal officials’ ability to manage their public safety workforces in a fiscally responsible manner. As noted in the League’s earlier testimony this year ([H 5405](#)), the state-mandated 42-hour workweek makes it impossible for the places like the Central Coventry Fire District from keeping their current staffing structure without substantial increases in fire district taxes.

Furthermore, the 2019 law included an extremely novel definition of “hours worked” as including paid leave. By definition, and according to all common sense, sick and vacation time is time spent not working. However, Rhode Island law now says that a firefighter’s paid time off should be counted the same as a normal workday for purposes of calculating overtime. Under that scenario, if a firefighter calls in sick on a scheduled workday and works an additional day later in the same period, he or she would be paid overtime for the extra day – even though the actual time spent on duty is within the standard workweek. State employees are prohibited from counting paid leave toward hours worked, specifically to prevent people from gaming the overtime system by using sick and vacation time. We are aware of no other job – in the public or private sector – where this practice is allowable or condoned.

The 2019 law is having real fiscal impacts in our communities. An analysis of firefighter overtime in Warwick suggests that counting paid time as hours worked is costing taxpayers an additional \$500,000 per year. The practice in Warwick appears to predate the 2019 law, and the League is

working with its members to determine the impact of the 2019 law in other communities. Unfortunately, any new overtime expenses will be in addition to Rhode Island’s already exorbitant costs for fire protection services. In December 2019, the RI Public Expenditure Council updated its report, “[How Rhode Island Expenditures Compare](#).” It found that Rhode Island had the second highest per capita spending on fire protection services in Fiscal Year 2017 – almost 70% more than the national average. That high level of spending contributes to higher than average property taxes – [the Tax Foundation reports that Rhode Islanders have the 9th highest property tax burden](#) in the nation.

Passage of the firefighter overtime law in 2019 deprived mayors, town managers and fire districts of their ability to manage personnel costs. We support passage of H 6156 to restore “hours worked” to its common-sense meaning and to prevent overtime abuse. We also urge repeal of the underlying 42-hour firefighter overtime law for all communities. Thank you for your consideration of our views.