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**Jonathan Westendorf, City of Franklin  
House Civil Justice Committee  
House Bill 472  
May 24, 2022**

Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski, and members of the House Civil Justice Committee, I appreciate the opportunity to come before you today and voice my concerns related to the elimination of civil protection afforded to our Police, Fire, and Emergency Medical Providers through House Bill 472. By way of introduction, I am Jonathan Westendorf and I currently serve as the City Manager for the municipality of Franklin located in Warren County. Prior to my current role, I served as the Chief of Fire & EMS for the same community since September 2000. I continue to be actively involved in the Ohio Fire Chiefs' Association as its Past President.

No one ever wants to be involved in a motor vehicle crash. Especially the police, fire, and EMS providers charged with dealing with such occurrences. Despite the inevitability of an occasional crash, such situations are quite rare considering the inordinate amount of time police cruisers, life squads, and fire apparatus spend on the road. Consider the manner and circumstances in which these vehicles must travel. Operating with lights and sirens, radios, oncoming traffic, some people who pull right for lights and sirens; many others who do not, or worse make last minute evasive maneuvers in any direction. Responders operate their vehicles in the rain, heavy down pours, torrential rains, as well as during snow and ice, often when quite frankly no one should be on the road. These professionals expertly maneuver through stopped or heavy traffic and manipulating large cumbersome vehicles through narrow streets and/or alleys, under and around tree limbs, basketball hoops or more. All to safely reach the scene of an emergency or transport a critical patient from the scene to the Emergency Room. Every public safety provider knows if the equipment does not arrive on the scene safely, those responders cannot possibly do their jobs.

The protections afforded to political subdivisions through the Sovereign Immunity Act of 1985 extend well beyond the financial costs borne by insurance funds; public or private. Without a doubt, if this measure passes as written, all public bodies will experience a sudden increase to our insurance premiums as the risk profile shifts from insurance companies (many of whom are for profit enterprises), where clients are indirectly (yet equally) paying premiums to protect their customers from uninsured loss if and when that should occur. That financial profile includes those who operate vehicles illegally without insurance, as well as those occasions where loss may occur due to involvement with a public safety entity that is legally afforded the provisions of governmental immunity.

One must also consider the reality of opportunistic bad actors who will now find a new target in seeking damages from the perceived 'deep pockets' found among various public entities. I am concerned that our limited staff will now be tied up in depositions and administrative hearings, with escalating and compounding attorney's fees, to defend these servants doing the difficult work of serving the public in an already challenging environment. For small communities such as Franklin, this issue becomes a matter of continuity of government. Our police and fire forces are already overworked and understaffed. We are struggling to find and maintain a sufficient applicant pool to fill existing positions. Taking our limited emergency providers off the street and tying them up in depositions to defend the city from frivolous claims can easily become a burden that we cannot handle. Nor is this the best use of our talented public safety providers who should otherwise be doing their actual jobs.

We as public servants, have a responsibility to do the right thing. Certainly, I have had a couple of occurrences throughout my over two decades in a senior administrative role, where crashes have occurred, and an uninvolved party was financially harmed. One instance occurred when a parked vehicle was struck when a large ladder truck made a turn accidentally damaging an unoccupied parked vehicle. Our driver was completely unaware of the incident at the time of its occurrence. In that case, we covered the cost of the deductible for our resident. It was the right thing to do. However, in a similar circumstance, an improperly parked vehicle on the street that was not insured experienced damage, that situation should become a responsibility of the people. As hard as it may seem, that individual illegally choose not to insure their vehicle, and therefore should bear the responsibility and consequence of that decision.

Earlier this year, we had a Rescue Engine that was parked on the interstate, blocking the scene of a prior crash. Our rescue was struck from behind. The vehicle did its job and protected the Troopers and our Fire & EMS personnel who were working the accident scene. Sadly, the crash cost the driver of the striking vehicle her life. The passenger of the striking vehicle was critically injured and will likely face a lifetime of recovery. Immediately upon impact, our rescue crews went to work providing medical care to the occupants involved and began the extrication process. Our crews were understandably devastated by this traumatic event. The protections afforded to our community through governmental immunity allow our community and the personnel involved in this tragic incident the ability to avoid the difficult and lengthy litigation process that would certainly follow in the wake of a policy change of this magnitude.

It is fair to say, this is a challenging topic. I am certain there are circumstances where individuals are negatively impacted by incidents, where little to no recourse is available under current law. I by no means fault this committee or the Legislature for searching for a fair and equitable manner to address the public policy gap which unequivocally exists. I would encourage the committee to continue searching for a solution where justice can prevail in those circumstances. However, I am confident that simply removing existing governmental immunities will cause significant unintended consequences for our local governments and public safety personnel.

Thank you for your time and consideration. I would be happy to answer any questions you may have.