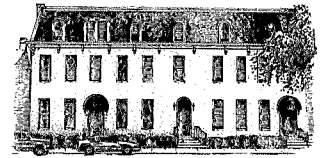




The Pennsylvania League of Cities and Municipalities



*A Century of Commitment*

# Testimony of Pennsylvania League of Cities and Municipalities

Presented by  
The Honorable C. Kim Bracey, Mayor  
City of York

## Joint House and Senate Hearings on Act 47

December 8, 2011  
House Majority Caucus Room

Good Morning Committee Chairs and members. Thank you for the invitation to testify on the very important and timely issue of Act 47 and municipal distress. I am Kim Bracey, Mayor of the City of York. I am here today representing the Pennsylvania League of Cities and Municipalities. I currently serve on the League's Board of Directors.

PLCM is a non-profit, non-partisan municipal association representing Pennsylvania's urban communities. Our membership is not based on form of government, but on common issues. Our current membership includes most of Pennsylvania's 56 cities and over 25 urban boroughs and townships.

As you know, Act 47 has been in the news frequently in recent months. The filing by our Capital city, its subsequent inability to accept the Act 47 Plan developed, and the General Assembly's recent amendments to allow the state to step in and take over have precipitated much discussion throughout municipal government. Additionally, last month's Supreme Court decision regarding Scranton's Act 47 Plan and arbitration awards has severely impacted the effectiveness of the statute. For the 20 communities in Act 47, the 57 Early Intervention communities and the scores of communities facing a future decision to utilize the act, today's hearing and subsequent changes to the law are of utmost importance.

Our vision, over time, is for small cities to have a menu of options and tools so that we can generate adequate public revenues to create the conditions whereby development can flourish and so our tax and fee structure is fairer and more stable and predictable. In turn, this will translate into property owners, residents, and businesses having the confidence and the security to invest, re-invest, and take ownership and pride in homes, blocks, and neighborhoods.

My message today is one of **prevention** and **self-reliance**. There are very real and absolute inadequacies in Pennsylvania's structure of local government. Changes must be made, locally and at the Commonwealth, to **prevent** communities from ever having to utilize Act 47. Act 47 should be for rare cases of municipal distress where nothing else can be done to turn a municipality around. Changes to Act 47 should be directly linked to changes to the elements that cause municipal distress. You, as policy makers, and our Commonwealth as a whole, must look comprehensively at the full picture. Your core communities are crumbling and we cannot sit idle and passively permit this to happen.

PLCM has been a longtime advocate for a number of municipal reform measures, but not until last year did we really focus in on several critical, key areas. This process was membership driven and began in June of 2010 with a call for volunteers to serve on a Core Communities in Crisis Task Force. The task force members, staff and technical advisors spent five months identifying and narrowing the issues confronting core communities; determining viable solutions to those problems; and preparing recommendations for the General Assembly and Governor. In November of 2010, our Core Communities in Crisis Report was published and copies sent to all legislators and Governor Corbett. I encourage you to take a few minutes to read through the Report. You have received another copy today and the Report is posted on the PLCM website.

### **Preventing Municipal Distress**

There are many factors involved in municipal distress. The City of York confronts the combined dilemmas of costs that rise faster than the rate of inflation with a narrow range of revenue sources that are relatively static. Specifically, the following four challenges have been festering and frustrating growth for years: (1) a warehousing of tax exempt real estate in cities; (2) spikes in pension and health care costs; (3) being land-locked and trapped in an archaic system of government; and (4) an antiquated tax system paired with a lack of enabling legislation from Harrisburg to cover rising costs. Simply put, the system created for the 1950s and 60s is not practical and does not work today. **It is a broken system.**

***Structuring Healthy Communities***, the Pennsylvania Economy League (PEL) study of municipal revenue over the thirty-year period from 1970 to 2009 has been quoted many times since its release in 2007 and the results bear repeating, "...fiscal distress is inevitable under the existing state laws that govern municipalities. Current legislation leaves those who lead the Commonwealth's cities, boroughs and townships with revenue streams that are out of sync with budget needs. The best fiscal management and programs of economic and community development are not enough to turn the tide within municipal boundaries...." The Study goes on to say, "in so much as municipal government is a creation of the state, leaders in the administration and legislature bear responsibility to create structures that allow municipalities to become and remain, strong, vibrant entities." We are not seeking a bail out. We are simply asking that you give us the tools we need to succeed.

The recommendations presented in our Core Communities in Crisis Report address the change that is needed in local government structure in order to prevent the most common instances of distress.

### **Regional Thinking**

We must shift from such a narrow, competitive approach to local government to a regional approach. Today's citizens utilize a region much more than their individual municipalities of residence. On a daily basis, we move in and out of multiple municipalities for work, school, shopping, healthcare, recreation and dining. To many folks these are invisible lines drawn on a map. We believe in the sense of place that exists in our 2,562 individual communities. But honestly, in 2011, it is a practical failure for our Commonwealth to have 2,562 local governments. And to have counties, like York, with 72 municipalities, that for the most part, do their own things without coordinated effort while the county seat is left to grapple with the largest concentrations of blight, poverty and tax-exempt land.

At 5.2 square miles, York is geographically one of the smallest cities in the United States. We also are land-locked with little hope of annexing land outside our borders to grow jobs and build tax base. So-called rustbelt cities like York are developed to their limits, and the

state offers few incentives for neighboring municipalities and the city to collaborate, let alone share resources or merge functions or facilities. Often, regionalization has unintended and adverse impacts. Because cities sometimes stand alone amongst surrounding municipalities as having the most professional staff, with the largest inventory of equipment or technology, as often is the case in police or fire protection; our services and the associated expenses, are sent out more often than support comes in. As is the case in York, in 2011, our City Fire Department provides protection service to North York Borough. This is not out of some masterful regionalization plan, nor was it incentivized by the Commonwealth. It was out of necessity. The City of York forged a relationship with North York Borough to provide fire protection services out of necessity. This is a great example of how regionalization can work; but I can attest it is not a revenue generation option, nor does it necessarily decrease the burden to our General Fund or Pension Fund.

Our fragmented municipal structure confuses and frustrates developers and would-be investors with a dizzying array of tax rates, incentives, strategic plans and planning commissions, zoning regulations and zoning boards. Our fragmented municipal structure dilutes our political, professional, and civic intelligence. Our diluted and duplicative identities breed turf mentalities and intransigence by some and disinterest by others.

We need leadership from the Commonwealth to offer meaningful incentives that forge regional thinking, technical assistance prioritized funding and best practices to model successful leadership efforts. From a budgetary standpoint, it is necessary to fully fund the Department of Community and Economic Development's Shared Services Program and the Governor's Center for Local Government Services.

### **Tools to Address Tax-exempt Entities**

Local government must be given the tools necessary to address the high percentage of tax-exempt property in our older communities. The designation of "tax-exempt" takes place at the state level, but the effects are felt locally.

Locally in the City of York, approximately thirty two percent (32%) of the City General Fund revenue comes from real estate tax. The city tax base value is about \$1.6 billion. Of that, about \$995 million is taxable, and \$605 million is tax exempt.

That's right; a staggering \$605 million, approximately 37% of the tax base in York is exempt and does not pay real estate taxes. This property includes government, utility, churches, social service agencies, hospitals, education, and post-secondary schools. The large percentage of tax-exempt real estate means that more than 50% of each taxpayer's bill is due to the high concentration of tax-exempt property. This level of tax-exempt property is especially burdensome to a population with a poverty rate of 20%, a per capita income rate of \$13,000 and median household income of about \$26,000.

We serve all people who work in or visit our city. That is our legal mandate and ethical obligation. The practical result is that the real estate taxpayers of our city subsidize every non-city resident who uses county government services, medical facilities, religious, higher education, or social services facilities. We fully recognize the role tax exempt institutions play in our communities as both employers and providers of educational, cultural, social, medical and religious services. However, this is a major drain on the overall tax base when the percentage within in a single municipality reaches 30, 40, or even 50 percent exempt.

City taxpayers, in many cases, the poorest in their counties, cannot sustain the burden of footing the bill for services that are used by all. This is free-riding, NOT self-reliance. Practically it is infeasible. Fundamentally it is unfair. The opportunity to secure payments-in-lieu-of-taxes from exempt entities is appreciated but wholly voluntary, is a full time job in and of itself and accounts to an overall minimal amount of money, at best.

PLCM has been an advocate for a state reimbursement to municipalities with a high percentage of tax exempt property. Additionally, we recommend that municipalities be authorized to charge municipal service fees for specific services provided to all property owners, including those that are tax-exempt.

## **Flexible Revenue Sources**

New revenue for municipalities is not looked upon favorably by many, but the reality is that our local taxing structure is simply inadequate and cannot sustain the rising expenses to provide municipal services. That is fact. You will find little dispute among my colleagues.

Older municipalities are hamstrung by their inability to generate sufficient revenue to cover basic service provision. Municipalities have only two local taxes that they can rely on – the local earned income tax and the local real property tax. These limitations place a heavy burden on our residents. They also cause our communities to be unable to compete in attracting prospective new residents and businesses who naturally compare the tax rates of municipalities.

Truth be told, Pennsylvania law severely restricts what small cities can do. As a consequence, we are overly dependent upon property taxes and an antiquated tax system to fund our services. It should come as no surprise that the real estate tax rate in the city has gone from 9.73 mills in 2001 to 17.38 mills in 2011.

This is not a good way to run a business or a city. Cities of the third class should be given a menu of options to become more self-reliant, in the tradition of Philadelphia and Pittsburgh, both of which have been bestowed and trusted with a flexible range of mechanisms to chart their destinies as world-class cities. Our state legislature needs to see our small cities as special, distinctive places that can light up our Commonwealth with innovation, culture, and family-sustaining jobs. We can only reach our destinies as great small cities if the Commonwealth affords us appropriate tools.

As mentioned earlier, today's society lives regionally and services are provided to residents, workers and visitors alike. Therefore, we should also tax regionally to allow the region and its anchor communities to benefit as a whole. An example of a regional tax is the 1% county option sales tax that is shared among all municipalities in the county. Or a countywide option tax on alcohol sale. Revenue generated could be restricted to pay for law enforcement or road improvements. These taxes and policies are already in place in

Philadelphia and Pittsburgh. Arguably, it is unjust to not offer these options to our county governments and their residents throughout the rest of the Commonwealth.

### **Control of Personnel Costs**

Placing limitations on the collective bargaining and pension laws that govern new uniformed employees is a tough, but necessary reality. We must draw a line and set limits on future awards and pension benefits. The current and future personnel expenses driven by Act 111 and municipal pension laws are half of municipal budgets in our older, full-service communities. Pension liabilities and post-retirement healthcare costs are equally significant and together they place a huge fiscal burden on residents many years into the future.

Act 111 has not been amended since its inception in 1968. The Act gives uniformed employees the upper hand when it comes to collective bargaining and binding arbitration. Specifically, municipalities pay the full cost of arbitration even though there are two parties to the process; the list of potential arbitrators is limited to only three; there is no requirement for consideration of a community's ability to pay for the benefits awarded; and the ability for a municipality to appeal an arbitration award in court is very narrowly limited. We are not suggesting Act 111 be eliminated, but a set of reasonable amendments to Act 111 would equalize these costly inequities.

Locally in York, after wages and salaries the highest line item expenses are pension and health insurance. "MMO", as you know, stands for "Minimum Municipal Obligation." State-imposed, "MMO" is the mandatory annual payment that a local government must pay into its pension fund against future obligations. In York, the 2001 MMO for the whole city workforce was \$546,042, but **by 2011, the MMO for the entire city workforce is a staggering \$6,575,288.**

In addition, employee health insurance costs have risen dramatically over the past ten years. The city maintains a self-funded employee health insurance program. In 2000, the total cost of the program was \$3,351,026, but by 2008 the cost was \$7,475,189 -- a 123%



increase over only eight years. Just imagine if we could collectively purchase health insurance regionally or have joint coverage provided under the umbrella of the Commonwealth of PA.

### **Reform Legislation**

Following the publication of the PLCM Report, we partnered with a number of local chambers – Reading, Harrisburg, Pittsburgh, Lancaster, York, and Wilkes-Barre. The consensus of the partnership was to concentrate on reforming two of the costliest mandates on local government -- Act 111 and municipal pensions. Over the course of this year, we have developed specific legislative language setting forth fair, common-sense reforms to Act 111. This language is finished and we are now at a point of needing a strong group of bi-partisan sponsors to introduce and help us move a bill. We would welcome the leadership and support of the members present today as sponsors of our proposal. Our municipal pension reform proposal is forthcoming as well.

I am here today to stress that we will stand with you to address this legislation. While it may seem controversial upon first glance, folks it is the right thing to do. You have mayors, council members, leagues and business leaders ready and willing to stand alongside of you and support this legislation and support each of you.

### **Act 47**

In conjunction with the above recommendations to prevent most cases of fiscal distress, PLCM has several suggestions for making Act 47 a more effective tool.

### **Immediate Concerns**

For PLCM members facing Act 47 and looking at the relief it could provide, two specific provisions of the statute that were arguably the main reasons to enter Act 47, have been jeopardized. These provisions are the ability to gain new revenue from an increased Non-resident Earned Income Tax and limitations on arbitration awards. The passage of Senate Bill 1151 and the recent Supreme Court decision out of Scranton have severely impaired both provisions potentially rendering the statute useless. As you know, SB 1151 removed

the earned income tax provision for third class cities that do not adopt the Act 47 Plan; and the Court decision allows arbitration awards to supersede Act 47 Plans.

Senate Bill 1321, introduced to resolve the issues surrounding the Court decision for future arbitration awards, should reinstate that very important Act 47 tool. If new revenue options are provided outside of Act 47, as suggested earlier, then reinstatement of the Earned Income Tax provision is not necessary. If not, an additional source of revenue for Act 47 communities is essential to fiscal health.

### **Early Intervention Program**

Although not currently part of the statute, the **Early Intervention Program (EIP)** has had success and is useful to municipalities at the first sign of distress. This program should be required for municipalities that meet certain criteria on their DCED financial reports. A mandatory early intervention program will require a financial commitment from the Commonwealth, but the upfront costs should easily be recouped by addressing fiscal issues earlier rather than later.

### **A Schedule for Moving Out of Act 47**

Currently, Act 47 is the legislative equivalent of the Roach Motel ***“Once You Check in, You Don’t Check Out.”*** Act 47 promotes no timeframe for moving through the process and coming out of the program. We support benchmarks of success or the appointment of an oversight board to help move a community out of Act 47. A timeframe and the requirement to leave Act 47 is only useful if the prevention measures discussed earlier are in place to support local governments. It does not make sense to expect municipalities to leave Act 47 and go back to operating under the old, ineffective governance that caused the distress.

### **Merger and Consolidation**

Both inside and outside of Act 47 there must be a concerted effort by the Commonwealth to find ways to make merger and consolidation attractive to municipalities. This is on both a services level and a municipal level and goes back to our original point of regional

thinking. Municipalities and their citizens naturally don't want merge with a municipality that is struggling. There are things the Commonwealth can do to make this easier - monetary incentives, removing obstacles, and providing technical assistance are the most commonly cited ways to achieve a willingness to merge and consolidate.

### **Boundary Change for Non-viable Communities**

It may be necessary to include in Act 47 an avenue for a municipality that can no longer sustain itself and provide for its citizens. PLCM supports the Boundary Review Commission housed in Senate Bill 1357 of 2010. The public process in the legislation provides for a reorganization and regionalization of local government in order to promote fiscal health and efficient service delivery. Act 47 may be the place to begin this discussion.

### **In Conclusion**

Today, as in numerous other hearings and venues, PLCM and my colleagues, have consistently laid out a number of reform measures that must take place at the state level to stop the fiscal decline of our municipalities. As stated at the beginning of my testimony, **prevention** and **self-reliance** should be the goals of the General Assembly.

We know how difficult and unpopular some of these decisions may be. I am here today on behalf of a city that supports these measures. Beyond support it desperately needs them. Like many cities, we are currently undergoing our city budget process. Presently, it proposes an 11% tax increase and a 10% increase in sewer refuse fees. This is nearly identical to our budget last year. The scary fact is our departments have held the line or cut costs where they can, outside of mandates. We are operating with less people and are freezing or eliminating any vacant positions, including three firefighters. So this budget proposes doing the same duties next year with less people, yet we still require an increase in revenue. Our only options remaining to present a budget free of a tax increase would be more significant layoffs in police and fire. Nobody wants that solution. And we simply cannot continue to ask our residents to pay more in property taxes. And unfortunately we are out of options. We have employed every tool and trick. This is not a result of

malfeasance. This is deferred maintenance by our Commonwealth that our residents, your constituents and mine, have to pay the price for.

Honestly, we have been saying this for years. None of this is new and none of this should be shocking. Mayors, council members, municipal managers, leagues, committees, consultants, studies and think tanks have all generally agreed to many of the principles laid forth today. Today, this is more than testimony; it is a plea for help. Let's face it, none of these cities or mayors wish to be in this position, but we are out of options and hope is dwindling. Reading, Scranton, Harrisburg - - these are our great cities. How can we continue to permit this as Pennsylvanians? Does our Commonwealth embrace its small cities or not? If nothing is done, more Act 47 petitions will follow and more bankruptcies will result.

We stand ready and willing to work with you and are asking for help.

This is not partisan. This is what it will take to arrive at sensible, self-reliant and preventative solutions for our core communities of this great Commonwealth that are in crisis.