

Testimony of Mayor J. Richard Gray (Lancaster County)
(presented on behalf of Mayor Gray by Senator Lloyd K. Smucker)
December 8, 2011

Good morning. Thank you for providing this opportunity to discuss the fiscal challenges confronting Pennsylvania's municipalities. Your willingness to examine the impact of Act 47 is both commendable and timely. I will focus my remarks today not on Act 47 itself, but rather on how the legislature can assist local governments in avoiding designation as distressed under Act 47.

This was the goal we set in Lancaster in January 2006. At that time, with support from the Governor's Center for Local Government Services, consultants were engaged to work with the Administration on developing a long-range financial plan; identify opportunities for increasing City revenues and reducing expenses; and analyze operations and programs with an eye towards improving service delivery while lowering costs. After an extensive audit of City operations and an analysis of financial trends affecting the City's budget, consultants reported in September 2007 that "Revenues are growing slowly, if at all, while expenses increase due to higher labor cost and cost of goods purchased. The financial forecast [we developed], based on current revenue and expenditure trends, predicts Lancaster City [faces] an accumulated shortfall of more than \$69 million by 2012."

In response to this report, specific actions were taken to stabilize City finances. Since 2006, the City of Lancaster has:

- Reduced the size of our workforce by 15 percent;
- Significantly reduced technology costs through a shared services agreement with County government;
- Implemented a new structure that assesses fees on a cost recovery basis;
- Increased employee contributions to medical benefit costs;
- Frozen salaries for non-union personnel; and
- Established a one-time only Early Retirement Incentive Program to reduce long-term salary costs.

In spite of these cost-cutting measure, Lancaster City taxpayers have seen their municipal property taxes increase by 47 percent over the past five years, and we've had to draw on reserve funds each year for the past ten years in order to balance the City's budget. In other words, we have used every available tool, exhausted every option, and done everything that local government can do to stabilize City finances.

That said, like every other Third Class City in Pennsylvania, Lancaster is living on borrowed time. Absent meaningful and immediate action on the part of the General Assembly, it is only a matter of time before Lancaster falls back into a state of fiscal decline and uncertainty.

For most Third Class cities, fiscal stability is not simply a matter of needing more revenue. In January 2008, the U.S. Government Accounting Office reported that "The fiscal challenges facing local governments are unlikely to be overcome solely by increasing revenue or by reducing expenses. Local government financing is hampered by structural problems that will require structural solutions."

Indeed, Pennsylvania is operating in a 21st century economy while struggling to finance public services with policies, structures, and labor contracts conceived in the mid part of the 20th century. The time has long passed for the legislature to address the inequity of property taxes; to reform the Act 111 arbitration process; to provide local government with a menu of options for generating revenue; and to repeal or amend antiquated state laws related to prevailing wage, bidding requirements, and tax policy.

TAX REFORM

The time has come for Pennsylvania's legislature to change the rules by which communities finance their local services. Local governments are forced to operate with a fiscal system that is, at best, irrational and, at worst, dysfunctional; a system that effectively deprives locally elected officials and the people they serve of the ability to be the architects of their own communities and their own futures.

Continued failure on the part of the legislature to address the over-reliance on property taxes as a source of revenue undermines the financial stability of every City in the Commonwealth. State laws that force cities to rely on property taxes as the primary source of revenue fail to take into account the impact of a high concentration of non-profit entities that pay no property taxes. An estimated one-third of Lancaster City properties valued at nearly \$750 million dollars are tax-exempt. County-owned property alone represents \$1.2 million in lost tax revenue. City taxpayers must fill this gap in revenues and are thus left with the highest property tax rate of all 60 municipalities in Lancaster County.

The legislature should amend Act 511 to provide for the allocation of earned income tax payments based on location of employment rather than location of residency.

In addition, local governments must be given a menu of options for generating revenue so they can determine how best to finance municipal services, based on land development needs, population demographics, the cost of municipal services, and the demands and priorities of local residents and businesses.

ARBITRATION REFORM

I want to be clear that I support the right of public employees to organize and to bargain the terms and conditions of their employment. I also support binding arbitration for those public safety employees who are, for obvious reasons, prohibited from striking. My support for the rights of the workers is tempered by my support for the rights of taxpayers to be treated fairly and to be considered in any arbitration award.

Instituted in the late 1960s to counter low wages and poor working conditions, Pennsylvania's Act 111 established the arbitration process for resolving contract disputes between municipalities and public safety personnel (police and fire). Since that time, the Act 111 process has grown into the most significant and costly mandate placed upon local government.

First, the arbitration process is untimely and protracted. The City of Lancaster's police contract that began in January 2011 is still in arbitration; and the first arbitration hearing for City's 2012 contract with firefighters is scheduled for January 2012. The lack of timeliness of arbitration process, forces the City to budget public safety costs based on nothing more than an educated guess. Imagine the havoc that would be wrecked on private sector business budgets or on the State's budget if labor costs remained unknown over such a protracted period. Act 111 should require that arbitration rulings be issued no less than 90 days prior to the start of the contract under dispute. This requirement should be mandatory and non-waivable.

Second, the arbitration process must be subject to public scrutiny and accountability. I agree that contract negotiations are most productive and best conducted in private. But when negotiations end in an impasse, arbitration hearings should be open to the public. In Lancaster, public safety salaries and

benefits represent an estimated 80 percent of the City's budget. Taxpayers should have the right to view and scrutinize deliberations that dictate the allocation of nearly two-third of that budget.

Act 111 should be amended to:

- Establish standards by which arbitrators must award contracts. Currently, no standards or guidelines exist to define the conditions that must be met in order for arbitrators to arrive at specific contract awards.
- The "reasonableness" of contract awards, pursuant to specific standards, should be appealable by either party to a court of record. Currently, awards are generally not appealable. Such a procedure would encourage both sides to present more reasonable demands of the other during the negotiation process and encourage resolution without arbitration.
- Standards should include a finding regarding the municipality's financial status. Arbitrators do not take into account the ability of a municipality to pay when awarding contract benefits and salaries, and do not differentiate between the ability of urban and suburban municipalities to afford the costs of contract awards. Police contracts in wealthy suburban municipalities are often used as "comparables" in City Act 111 arbitrations -- despite the structural financial problems cities have compared to most of their suburban neighbors.
- Arbitration rulings should be based on a choice between the "last best offer" submitted by each party for each item in dispute. The current method of determining awards relies on the subjective assessment of what will achieve the necessary majority vote of the arbitration panel.
- Neutral arbitrators should be chosen randomly by the Commonwealth and the cost of the neutral arbitrator should be shared equally between the municipality and the bargaining unit. Neutral arbitrators are currently chosen by agreement between the two parties, with the municipality bearing the full cost of the neutral arbitrator and at no cost to the bargaining unit.
- Arbitrators should be prohibited from awarding wage increases that exceed the rate of inflation as has been done by New Jersey Governor Christie.

REGIONAL SERVICES AND CONSOLIDATION

The 11 municipalities comprising the central core of Lancaster County are home to nearly 187,000 residents – about 40% of the County's total population. In spite of their proximity, eight of these municipalities each have their own Police Departments and Police Pension Plans; their own Public Works Departments; their own Planners, Code Officials, Solicitors, and so on. To increase efficiency and reduce the costs of local government, inter-municipal delivery of services must be incentivized or mandated – and funded.

For example, in recent years, Lancaster County has seen smaller townships and boroughs coming together to form regional police or volunteer fire services. Regionalization has become a widely recognized strategy for reducing costs and maximizing service capacity. The single greatest deterrent to

regional public safety services for Lancaster City and the eleven surrounding municipalities are the legacy costs associated with establishing a large regional or metropolitan force. The legislature should establish a funding pool that would cover these legacy costs as an incentive that will, in the long term, reduce the cost of police and fire services.

Finally, the Commonwealth should provide incentives – or even mandates - for consolidation of municipal pension plans at the statewide level. Such consolidation would provide for a reduction in the massive costs of administrative overhead associated with maintaining the more than 3,000 municipal pension plans in Pennsylvania.

REGULATORY REFORM

Economic development initiatives aimed at revitalizing the urban core of cities are undermined by state policies that make private development more difficult and costly. For example, the excessive costs and time required to conduct environmental assessments and secure required clearances to develop properties undermines investment in older cities.

Implementation of the State Uniform Construction Code adds significant additional costs and poses excessive burdens that also hinder development projects in older cities. The UCC must be amended in a way that takes into account the special challenges and increased costs inherent in projects involving adaptive reuse of existing structures.

Lawmakers must establish policies that encourage investment in Pennsylvania's older cities and boroughs. Historic structure tax credits have been successfully used by other states to boost economic development and revitalization of older communities.

Senator Smucker has proposed reasonable and equitable reforms to prevailing wage requirements. Specifically, the Senator has proposed that prevailing wage rates be calculated based on occupational wages competitive with local wages; that the threshold above which prevailing wage applies, from the \$25,000 set in 1961 to a more realistic \$200,000; and that maintenance work, as contrasted to construction, would not require prevailing wage rates.

In closing, if reforms are implemented at the State level, there can be no doubt that Pennsylvania's municipalities can thrive as never before, that Third-Class cities now in crisis will have hope for recovery, and that Pennsylvania communities will be able to meet the growing demand for core services that only local government can provide. Again, I thank the Committee for your willingness to examine these issues and I hope that these Hearings are the first step towards a more stable and prosperous future for the entire Commonwealth.