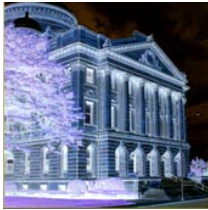


REASONS FOR CHANGE



Luzerne County
Home Rule Charter Review:
Problems Found and
Reforms Proposed



From Negative



To Positive

REASONS FOR CHANGE CITED BY LUZERNE GSC

Needs To Be Addressed:

- Separation of political authority and influence from day-to-day operations and decision making
- Better checks and balances
- More ethical, accountable, and transparent government
- Better decision making process (no more 2-vote rule)
- Separation of legislative & executive functions
- Establish clear lines of authority and unity of purpose
- Improved budget procedures & controls
- Integrity and uniformity in personnel matters
- Elimination of duplication and overlap
- Greater efficiency in government operation

STRUCTURAL REFORMS

Present Form:

1. Three Commissioners with legislative and administrative powers and duties
2. Eleven Independent Row Officers
3. Voters have no rights to Initiative and Referendum

Charter Form:

1. Eleven part time Council members limited to legislative powers and duties
2. Full time appointed professional manager with all administrative powers and duties
3. Just two row officers
4. Required Administrative Code, Personnel Code, Accountability, Conduct, and Ethics Code
5. Initiative and Referendum

POLITICAL REFORMS

Problems Identified:

1. Commissioners hold political authority and power **and** control day-to-day county operations
2. Political power concentrated in two majority commissioners

Charter Reform:

1. Separation of political authority from control of day-to-day operations. Professional manager and staff operate county, political council prohibited from involvement in day-to-day operations
2. Eleven member council reduces influence of specific individuals

POLITICAL REFORMS

Problems Identified :

1. County-wide elections for three commissioners require tremendous financial resources and exacerbate influence of big-money political contributors
2. Few citizens have realistic opportunity to be elected to county commissioner seat or row office
3. Most citizens cannot run for or serve in county office due to the current form

Charter Reform:

1. Frequent elections for more numerous council seats reduce the money needed by a candidate to be elected to county council and **reduce** influence of big-money contributors
2. Large council creates greater opportunity for citizens to be elected to serve in county government
3. Most citizens can participate in new county government as part-time council members

POLITICAL REFORMS

Problems Identified :

1. Significant county elections only occur at commissioner elections every four years
2. Small three commissioner board creates little realistic opportunity for minority parties and interests to significantly participate in county decision making

Charter Reform:

1. More voter input with election of half of county council every two years
2. Large council creates greater opportunities for minority parties and interests to be elected and creates real opportunity that a small number of council members hold balance of power on council

POLITICAL REFORMS

Problems Identified :

1. No term limits for any elected county official
2. Any elected county official can run and campaign for another office while serving in existing elected capacity

Charter Reform:

1. Imposition of term limits prevents establishment of entrenched political class
2. “Resign to run” provision prohibits full-time elected county officials from using existing office as base from which to campaign

DECISION-MAKING REFORMS

Problems Identified :

1. Elected commissioners and row officers share day-to-day operational and decision-making authority, resulting in conflicts, cross-purposes, and lack of common goals
2. Only two commissioners required for approval of contracts

Charter Reform:

1. Professional manager and staff have exclusive authority over all day-to-day operations and decision-making, resulting in common goals, teamwork and unified efforts
2. Majority of large council needed for approval of significant contracts. Creates system for thorough and independent review of contracts

DECISION-MAKING REFORMS

Problems Identified :

1. Commissioners have authority to negotiate contracts **and** to approve the same contract
2. Commissioners propose legislation and vote to adopt legislation

Charter Reform:

1. Power to negotiate contracts vested **only** in manager. Council approval required for significant contracts. Separation of negotiation and approval authority creates check and balance
2. Legislation approved by council is subject to mandatory reconsideration at request of manager. Acts as check and balance and creates additional public opportunity to participate in legislative process

DECISION-MAKING REFORMS

Problems Identified :

1. Elected commissioners and row officers have day-to-day authority including the power to hire and fire employees resulting in decision-making based on political considerations
2. Commissioners appoint division/office heads without uniform standards resulting in inappropriate political appointments to key positions

Charter Reform:

1. Elected council prohibited from day-to-day decisions including participation in hiring and firing of employees. Eliminates political considerations in hiring, firing, and day-to-day decision making
2. Manager appoints division/office heads based on qualifications and subject to council confirmation, preventing two majority commissioners from making appointment based solely on political considerations

DECISION-MAKING REFORMS

Problems Identified :

1. No ethics commission or county ethical standards
2. No limitation on annual tax increases

Charter Reform:

1. Creates Accountability, Conduct, and Ethics Commission and requires establishment of ethics rules
2. Imposes limitation of 8% on any year-to-year tax increase

CITIZEN ISSUES

Problems Identified :

1. Commissioner meetings held during working hours
2. No requirement for commissioners to issue “state of county” address or updates
3. No citizen right to enact legislation by initiative or to repeal governmental action by referendum
4. County government organized and operates under County Code. State legislature must change County Code to modify governmental systems

Charter Reform:

1. One council meeting per month required to be held during evening hours; prior posting of agendas required
2. Manager required to hold annual public forum and to issue annual “state of county” address
3. Creation of citizens’ right to propose and enact legislation by initiative process or to repeal legislation by referendum
4. Luzerne County voters have power to amend charter to modify governmental systems

GOVERNMENT OPERATIONS

Problems Identified :

1. Independent elected row officers not answerable to county commissioners or central county authority. Commissioners set row office budgets and provide office space. Otherwise, row officers have complete independence from county authority

Charter Reform:

1. Elimination of most elected row offices with functions transferred to professional staff under jurisdiction of county manager. Provides for professional management of row office functions, unified control and accountability of row office practices, and opportunities for efficiency and consolidation of operations

GOVERNMENT OPERATIONS

Problems Identified :

1. Two elected jury commissioners with salaries and benefits but little apparent responsibility. All their work is handled by court system.

Charter Reform:

1. Elimination of jury commissioner offices and expenses. Jury selection function continued in court system

GOVERNMENT OPERATIONS

Problems Identified :

1. Numerous solicitors throughout county government. Solicitors represent individual row office or department heads, not county. Creates opportunity for intra-county litigation between departments. Solicitors receive varying levels of compensation and benefits often set by row officers or department heads without regard to actual amount of work required

Charter Reform:

1. Create unified county law department representing all county officials and functions. Law department attorneys owe legal duties to county and not to individual officers. Limits or eliminates wasteful intra-county litigation. Law department size tailored to actual workload generated by county activities. Allows assignment of subject matter expert lawyers to county legal business rather than standing office solicitors who may have no expertise regarding issue at hand

GOVERNMENT OPERATIONS

Problems Identified :

1. Controller operates under antiquated county controllers' act from June 27, 1895. Controller states that the office is many years behind in audits of county offices and functions with no realistic possibility of becoming current due to lack of resources
2. Controller's access to County records and information easily stymied by other officials

Charter Reform:

1. Controller's role as independent watchdog enhanced by assignment of functions set forth in Model Legislation Guidelines for Local Government Auditors
2. Controller granted unrestricted access to county records and employees

GOVERNMENT OPERATIONS

Problems Identified :

1. No requirements for clarity or full disclosure in annual budgets
2. No requirement for budget message explaining programs and priorities or for long range planning

Charter Reform:

1. Requires budgets to contain comparative figures for each line item from at least the current and prior fiscal years
2. Requires annual budget message by manager providing important information on the county's finances, operations, debt, and related issues. Manager must also submit long range plan for council approval on an annual basis

GOVERNMENT OPERATIONS

Problems Identified :

1. Various departments, row offices, divisions, and ad hoc committees maintain and control dozens of bank accounts

Charter Reform:

1. Require all accounts connected with county operations to be under the unified control and management of the Budget and Finance office overseen by the manager

GOVERNMENT OPERATIONS

Problems Identified :

1. County purchasing policy not uniformly enforced or applicable to all row officers and agencies
2. Commissioners have unfettered discretion in contracting for professional services

Charter Reform:

1. Institute uniform purchasing policy under direction of county manager requiring telephonic bidding of all purchases in excess of \$2,500 and sealed bidding for all purchases in excess of \$25,000. Bid splitting specifically prohibited by charter
2. All professional services in excess of \$25,000 subject to request for proposal (RFP) procedure. Insurance contracts, formerly treated as professional services, now subject to competitive bidding

GOVERNMENT OPERATIONS

Problems Identified :

1. County has no right to audit vendors regarding compliance with or performance concerning county contracts

Charter Reform:

1. All contracts executed by county must contain “right to audit” clause allowing the county to audit county vendors in connection with county contracts

PERSONNEL

Problems Identified :

1. Hiring and promotions not required to be merit based
2. No requirement for posting of job openings
3. No criteria for hiring decisions
4. No standards for hiring of seasonal help. Relatives and friends of county officials and employees typically obtain summer employment
5. Weak or non-existent anti-nepotism policy

Charter Reform:

1. Hiring and promotion based on merit as demonstrated by examination or objective evidence of competence
2. Job openings must be publicly advertised and posted
3. Applicants to be blindly ranked and must be in top three of ranked candidates for eligibility to be hired
4. All seasonal positions filled by lottery or random selection
5. Charter provision containing anti-nepotism policy

**SUMMARY OF MAJOR PROVISIONS OF THE
RECOMMENDED HOME RULE CHARTER FOR LUZERNE COUNTY**

ARTICLE I—GENERAL POWERS. Authorizes the County government to exercise all powers not denied it by the constitutions of the United States and Pennsylvania, applicable law, or the Charter, and provides that all grants of power be broadly construed in favor of the County. This Article also preserves the rights, privileges, and powers of individuals under the United States and Pennsylvania constitutions and ensures the Charter will not limit or in any way interfere with the jurisdiction, rights, powers, or autonomy of any unit of local government.

ARTICLE II—LEGISLATIVE BRANCH/COUNTY COUNCIL. Provides that legislative, taxing, budgeting, and policy-making powers are to be exercised by an 11-member County Council elected at-large for staggered terms of four years. Members will serve on a part-time basis, be limited to three consecutive terms in office, and be paid \$8,000 per year. They will not receive a County pension or any other employee benefit. All legislative actions will require the adoption of an ordinance or resolution, and certain actions will require a special public hearing. At least one County Council meeting each month must be held in the evening.

ARTICLE III—OTHER ELECTIVE OFFICIALS. Provides for the election of a Controller and District Attorney for terms of four years. These officials may serve only three terms, and they must resign if they choose to run for any other elective public office. The Controller will serve on a full-time basis, be the people's "watchdog" over County fiscal and management activities, monitor and examine county operations, and have the authority to conduct fiscal, performance, management, contract, grant, compliance, and related audits of any aspect of County government. The District Attorney will continue to serve on a full-time basis and be the County's chief prosecutor. The compensation of both the Controller and District Attorney will remain as at present. The Clerk of Courts, Coroner, Jury Commissioners, Prothonotary, Recorder of Deeds, Register of Wills, Sheriff, and Treasurer will no longer be elected by the voters. The duties and responsibilities of these officials will become part of the County's Executive Branch and overall administrative structure resulting in unified control and accountability, and they will be carried out by employees appointed based on their qualifications,.

ARTICLE IV—EXECUTIVE BRANCH/COUNTY MANAGER. Separates control of the day-to-day operations of the County from the political and legislative authority of County Council and establishes the position of County Manager. The Manager will head the Executive Branch and be responsible for ensuring that all functions are carried out as efficiently and economically as possible. County Council is prohibited from interfering with the day-to-day operations of the Executive Branch, including the hiring, promotion, and firing of personnel and the negotiation of contracts, although Council must approve certain contracts and other actions of the Manager. The County Manager will be appointed by County Council on the basis of executive abilities and administrative qualifications as evidenced by professional preparation, training, and experience in public administration, finance, and/or other fields that demonstrate substantial ability to perform the functions of County Manager. The selection process requires the appointment of a Search Committee to recruit, screen, and interview candidates and recommend the most qualified for Council's consideration. The County Manager will be a full time employee and may not hold

any elective public office or any other public employment and may not engage in any other business or occupation during normal County business hours. The County Manager, subject to confirmation by County Council, will appoint division heads and other key officials who will be directly responsible for the day-to-day operations of the County. As a check and balance, the County Manager can require County Council to reconsider ordinances and resolutions it has adopted.

ARTICLE V—BUDGET AND FINANCE. Establishes the procedures for the adoption of the County's annual budgets and other fiscal actions, and limits the annual growth in real estate tax revenues to eight percent, except upon specific approval by the Court of Common Pleas. The County Manager will be responsible for preparing balanced budgets and presenting them to County Council for its consideration. The budgets must be available for public inspection for at least 30 days prior to adoption and at least one public hearing must be held. All County funds must be in the custody and control of the Division of Budget and Financial Services, and no payment can be made or obligation incurred unless in accordance with stated policies and procedures and unless there is a budget appropriation with a sufficient unencumbered balance. The County's accounting system must adhere to Generally Accepted Accounting Principles. County Council will hire a certified public accountant to conduct an independent and timely audit of all County financial transactions each year. Provisions are also made for emergency appropriations, changes in the adopted budget, and the transfer of funds during the budget year. The County will be required to have a long-range operational, fiscal, and capital plan.

ARTICLE VI—ADMINISTRATIVE CODE. Provides for an Administrative Code that will set forth a plan for the organization, administrative structure, procedures, and operations of the County. The Administrative Code will make adequate provision for budgeting and other financial procedures, purchasing and acquisition procedures, procedures for the disposition of County property, and other rules, regulations, and procedures desirable for the efficient and effective administration of County government. All elements of the Code will apply to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials, the Judiciary, and the Office of Court Administration and will cover all employees of the County, all members and employees of all County boards and commissions, all elective county officials and all employees of their offices, and all employees of the Judiciary and Office of Court Administration. The initial structure and organization is provided in Article XII of the Charter (Transitional Provisions). Permanent elements include the Office of Public Defender and the Office of Law/County Solicitor, which will serve as a unified source of legal advice on all official County matters. The heads of all divisions, the County Solicitor, and the Chief Public Defender will be selected on the basis of qualifications and experience, and operate under the jurisdiction of the County Manager. Nothing in the Charter shall be construed as interfering with the inherent and constitutional rights and powers of the Judiciary to do all things reasonably necessary for the administration of justice.

ARTICLE VII—PERSONNEL SYSTEM. Requires a Personnel Code that will establish and maintain the means to recruit, select, develop, and maintain a qualified, ethical, effective, efficient, productive, and responsive workforce in order to best meet the needs of the County. Employees who are members of the career service will be appointed and promoted based on merit and fitness as demonstrated by valid and reliable examinations, other objective evidence of

competence, and/or other relevant factors. Job openings will be publicly posted and advertised, candidates will be ranked, and job discrimination will be prohibited. The Charter protects the terms and conditions of collective bargaining agreements as well as the status and rights of collective bargaining units and present and former employees.

ARTICLE VIII—AUTHORITIES, BOARDS, AND COMMISSIONS. Provides the procedures for establishing authorities, boards, and commissions and the appointment of their members by County Council. In most cases, elective County officials and County employees are precluded from serving and members may not serve on multiple County authorities, boards, and commissions. In addition, there is a limitation on the direct involvement of members of authorities, boards, and commissions in County government for one year after they leave office. This Article also restricts the County's ability to pay salaries and benefits to members of authorities, boards, and commissions, reconstitutes the Board of Elections and Registration, Board of Tax Assessment Appeals, and Retirement Board, and changes the County's membership on the Joint Airport Board. The Charter abolishes the Board of County Commissioners, the Salary Board, and the Prison Board.

ARTICLE IX—ACCOUNTABILITY, CONDUCT, AND ETHICS. Provides for an Accountability, Conduct, and Ethics Code that will apply to every County division, department, bureau, office, agency, board, commission, and other administrative unit as well as the offices of all elective County officials, the Judiciary, and the Office of Court Administration and cover all employees of the County, all members and employees of all County authorities, boards, and commissions, all elective county officials and all employees of their officers, and all employees of the Judiciary and Office of Court Administration. At a minimum, this Code will include provisions addressing ethics, political activity, conflicts of interest, gifts, personal use of County resources, and conduct and behavior in the performance of duties and establish an Accountability, Conduct, and Ethics Commission to receive, investigate, and make determinations on complaints and alleged violations of the Code. It will also provide penalties, sanctions, and remedies for violations of the charter and this Code. In addition, this Article contains an anti-nepotism provision.

ARTICLE X—INITIATIVE AND REFERENDUM. Provides registered voters with the power to propose ordinances for consideration by County Council, the power to propose and enact ordinances independent of County Council, and the power to repeal ordinances adopted by County Council. The initiative process allows registered voters to gather signatures on a petition and propose certain types of ordinances, and, if Council does not enact the ordinance, the voters are given the power to enact it at the next election. The referendum process allows registered voters to gather signatures on a petition resulting in the suspension of certain types of ordinances adopted by Council, including those authorizing the borrowing equal to more than 15 percent of the County's General Fund Budget to finance one or more capital project, and, if Council fails to repeal the ordinance, to approve or disapprove it at the next election. _

ARTICLE XI—GENERAL/MISCELLANEOUS PROVISIONS. Addresses the legal obligations of the County, terminology used in the Charter, common provisions relating to elective officials, the right of citizens to be heard, certain technical and procedural issues, and states that the power to amend the Charter and modify the government structure resides with the voters of Luzerne County, not the state legislature.

ARTICLE XII—TRANSITIONAL PROVISIONS. Establishes the effective date of the new form of government as Monday January 2, 2012, and states that the first elections to fill offices in the new form of government will be in 2011. It further provides for the initial appointment of the County Manager and Clerk of County Council and outlines the initial structure and organization of the Executive Branch, including the divisions of Administrative Services, Budget and Financial Services, Correctional Services, Human Services, Judicial Services and Records, and Operational Services. In addition, it provides for the adoption of temporary ordinances and defines various transitional procedures including the formation of a Transition Committee for the purpose of ensuring a smooth, orderly, and seamless transition to the new form of government. The Committee's responsibilities include drafting the Administrative Code, Personnel Code, Accountability, Conduct, and Ethics Code, and any other ordinances, rules, and regulations deemed to be appropriate for consideration by the County Manager and County Council. The Transition Committee will also undertake the search and recruitment process for the initial County Manager, Clerk of County Council, and possibly other positions in order to recommend suitable candidates to the newly elected County Council.