

## **“LITTLE BOXES” – LIMITED HORIZONS**

### **A STUDY OF FRAGMENTED LOCAL GOVERNANCE IN PENNSYLVANIA: ITS SCOPE, CONSEQUENCES, AND REFORMS**

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**A Background Paper funded by  
the Brookings Institution Center on Urban and Metropolitan Policy  
in support of the larger project,  
*Back to Prosperity: A Competitive Agenda for Renewing Pennsylvania***

**December 2003**

*\* The views expressed in this paper do not necessarily reflect those of either the trustees, officers, and staff members of the Brookings Institution. This background paper has also not been subject to a formal peer review process.*

## **Part I: Trends and Issues**

The Commonwealth of Pennsylvania has created the nation's most fragmented system of local government within its metropolitan areas.

Without even examining sprawl-inducing state infrastructure investments, state policies have contributed to uncontrolled urban sprawl by making its "little boxes" governments so highly dependent on local property taxes, promoting a constant ratables chase. Over the last fifty years Pennsylvania ranks second only to West Virginia in consuming the most land for the least population growth.

The combination – constant outward development overlaying a pattern of immutable local government boundaries – has condemned Pennsylvania's "inelastic" central cities, most boroughs, and many "built-out" townships to population, economic, and fiscal decline.

The many governmental "little boxes" actively contribute to the high degree of racial and economic segregation that characterizes Pennsylvania's metropolitan areas.

Whether through costly inefficiencies, high social and economic disparities, or cutthroat inter-municipal competition, Pennsylvania's governmental system of "little boxes" also retards its economic growth.

Overcoming these handicaps is beyond the capabilities of the current crazy quilt of "little boxes" governments.

The Governor and General Assembly must either radically change local governance or mandate new "rules of the game" for how the myriad "little boxes" must act on issues that transcend jurisdictional boundaries.

This paper will present evidence briefly substantiating each of the above statements before framing recommendations for state action.

### **1. Measuring Governmental Fragmentation**

According to the 2002 Census of Governments, Pennsylvania has 2,630 local general governments: 66 counties, 1,018 cities and boroughs, and 1,546 townships.<sup>1</sup> This is the third

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<sup>1</sup> This study will be limited to local general governments rather than include special purpose governments, such as local school districts.

largest number of local governments behind Illinois (2,824) and Minnesota (2,734). In 2000, Pennsylvania had one unit of general government for every 4,670 residents.

Micro-government is characteristic of what I have called the twenty “town and township” states that extend across the northern tier of states from Maine to the Dakotas generally north of the Ohio River. In these twenty “little boxes” states every square foot of ground falls within the jurisdiction of some local government below the level of county government. Town and township states average a local government for every 4,213 residents.<sup>2</sup>

This pattern contrasts sharply with governance in the thirty “county” states. In these thirty states municipalities usually are formed only in more densely developed areas. Outside municipal limits, the remaining land is unincorporated and falls under county government’s jurisdiction. “Big Box” county states average one local government for every 14,227 residents (three times “less government” than town and township states). The largest “Big Box” system is Hawaii, which, with only four island-wide county governments, averages 302,884 residents per local government.<sup>3</sup>

In Pennsylvania, townships have quasi-municipal status and are not subject to annexation by cities and boroughs as they are in both Illinois and Minnesota. Pennsylvania’s laws allow only formal merger between two or more municipalities through dauntingly cumbersome procedures (discussed in section 7) that have led to only mergers in the last 47 years.

Of the states that, like Pennsylvania, do not permit annexation, none has as many local governments as Pennsylvania.<sup>4</sup> Only two have fewer residents per local government.<sup>5</sup>

A much more sophisticated measure of governmental fragmentation has been developed by Dr. David Y. Miller of the University of Pittsburgh. For 310 metropolitan areas Miller’s Metropolitan Power Diffusion Index (MPDI) calculates the degree to which twenty-one different governmental

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<sup>2</sup> North Dakota has one local government for every 368 residents.

<sup>3</sup> While there are historical political and economic reasons for the pattern of local government in the state, many of those reasons do not make sense given current realities. Furthermore, some specific local governments may have been created for skewed reasons. Among neighboring New Jersey’s 566 “little boxes” municipalities, two boroughs are simply private golf courses containing a few fairway mansions (Pine Valley and Tavistock); five were federal housing projects built for World War II defense plant workers that, orphaned fiscally by the War Department after V-J Day and shunned by their surrounding towns, had to be incorporated as stand-alone boroughs; Roosevelt borough was originally a post-Holocaust Jewish refugee camp similarly ostracized by neighboring towns. Hundreds of similar stories may exist behind the creation of Pennsylvania’s 2,564 municipalities.

<sup>4</sup> Maine (505 local governments), New Hampshire (244), Vermont (298), Massachusetts (356), Rhode Island (39), Connecticut (179), New Jersey (587), and New York (1,602).

<sup>5</sup> Maine (2,525 residents per local government) and Vermont (2,043).

services are delivered on either a relatively unified or relatively fragmented (or, “diffused,” in Miller’s terminology) basis. The higher the score, the more fragmented the delivery of services.

Table 1.1 lists the ten metro areas with the highest MPDI followed by all other Pennsylvania metro areas and their relative rankings.

**Table 1.1  
Most fragmented metro areas by MPDI score, 1972 and 1992**

	1972 MPDI	1992 MPDI
<b>1. Philadelphia PA-NJ PMSA</b>	<b>14.30</b>	<b>15.40</b>
2. St. Louis MO-IL MSA	12.30	14.40
3. Boston-Lawrence-Salem MA PMSA	11.20	12.30
4. Chicago IL PMSA	8.30	12.10
<b>5. Pittsburgh PA PMSA</b>	<b>10.70</b>	<b>11.60</b>
<b>6. Scranton-Wilkes Barre PA MSA</b>	<b>9.26</b>	<b>11.00</b>
7. Minneapolis-St. Paul MN-WI MSA	8.53	9.36
8. Detroit MI PMSA	8.05	9.09
<b>9. Harrisburg-Lebanon-Carlisle PA MSA</b>	<b>7.93</b>	<b>8.98</b>
10. Monmouth-Ocean NJ PMSA	8.19	8.71
<b>12. Allentown-Bethlehem-Easton PA MSA</b>	<b>7.75</b>	<b>8.62</b>
<b>18. York PA MSA</b>	<b>7.14</b>	<b>7.93</b>
24. Johnstown PA MSA	7.76	7.64
<b>32. Lancaster PA MSA</b>	<b>5.72</b>	<b>6.76</b>
36. Reading PA MSA	6.07	6.63
47. Beaver County PA PMSA	6.05	6.16
67. Sharon PA MSA	4.98	5.12
77. State College PA MSA	4.19	4.98
82. Williamsport PA MSA	4.60	4.70
<b>114. Erie PA MSA</b>	<b>3.98</b>	<b>4.32</b>
119. Altoona PA MSA	3.51	4.23
national average – 310 MSAs	3.83	4.17
national average – 295 MSAs (w/o Pennsylvania)	3.67	4.00
Pennsylvania average – 15 MSAs	6.93	7.60
average – 8 Brookings study MSAs	8.35	9.33
average – 7 Brookings study MSAs (w/o Erie)	8.97	10.04

Note: MSAs targeted by Brookings study are **boldfaced**.

By 1992 every Pennsylvania metro areas exhibited a higher level of governmental fragmentation than the national average of 295 non-Pennsylvania metro areas (4.00). Fragmentation was particularly pronounced in the eight metro areas targeted by the Brookings study (9.33).<sup>6</sup> Moreover, over the previous twenty years, the rate of increase in governmental fragmentation was three times as great in the Brookings Eight (8.35 to 9.33, or .98 points) as

<sup>6</sup> If the relatively less fragmented Erie metro area were eliminated, the average MPDI of the remaining seven metro areas would be 10.04.

occurred for all 295 metro areas outside Pennsylvania (3.67 to 4.00, or .33 points). As we shall see in the next section, this greater rate of increase does not primarily reflect formation of new governments (which was not occurring, except for special districts) but rather the rapid suburbanization of most Pennsylvania metro areas that gave greater weight in the MPDI index to increasingly populous townships.

Accounting for five of the twelve most fragmented metro areas, Pennsylvania ranks as the most governmentally fragmented state (Table 1.2).

**Table 1.2**  
**Selected states by average MPDI score in 1992<sup>7</sup>**

State	ranking	no. MSAs	MPDI
<b>Pennsylvania</b>	<b>1</b>	<b>15</b>	<b>7.60</b>
Massachusetts	2	5	6.91
New Hampshire	3	2	6.50
Illinois	4	11	6.47
New Jersey	5	8	6.10
Ohio	8	13	5.27
New York	9	13	5.25
California	16	23	4.22
West Virginia	18	4	3.99
Maryland (with Washington DC-MD-VA)	29	4	3.34
Texas	31	28	3.28
Florida	36	20	3.07
Virginia (with Washington DC-MD-VA)	41	7	2.46
New Mexico	46	3	1.83

Thus, by both counting the number of fixed-boundary local governments and by Miller’s more sophisticated MPDI, Pennsylvania has the nation’s most fragmented, inflexible system of local government.

## 2. Measuring Urban Sprawl

Sprawl is like pornography – hard to define but you know it when you see it. Perhaps the most common measure of urban sprawl is comparing the growth of “urbanized population” and “urbanized land” within Census Bureau-defined “urbanized areas.”<sup>8</sup> Table 2.1 presents this comparison for Pennsylvania’s seventeen “urbanized areas.”

<sup>7</sup> Not included due to missing data, Connecticut and Rhode Island would probably have ranked in the top dozen (though not ahead of Pennsylvania) and Alaska and Hawaii would have had the lowest MPDI values.

<sup>8</sup> An “urbanized area” is defined by the Census Bureau as a central urbanized place of 50,000 or more residents (generally, a “central city”) together with contiguously developed areas of an average density of at least 1,000 residents per square mile.

**Table 2.1**  
**Growth of population and land in Pennsylvania's urbanized areas from 1950 to 2000**

	urbanized population (in 1,000s)		urbanized land (in sq. mi.)		pop. growth	land growth	ratio
	1950	2000	1950	2000			
<b>Philadelphia PA-NJ-DE-MD</b>	<b>3,110</b>	<b>5,149</b>	<b>358</b>	<b>1,800</b>	<b>66%</b>	<b>401%</b>	<b>6 to 1</b>
<b>Pittsburgh PA</b>	<b>1,533</b>	<b>1,753</b>	<b>254</b>	<b>852</b>	<b>14%</b>	<b>256%</b>	<b>16 to 1</b>
<b>Allentown-Bethlehem PA</b>	<b>226</b>	<b>576</b>	<b>49</b>	<b>290</b>	<b>155%</b>	<b>487%</b>	<b>3 to 1</b>
<b>Scranton-Wilkes Barre PA</b>	<b>508</b>	<b>385</b>	<b>171</b>	<b>159</b>	<b>-24%</b>	<b>-7%</b>	<b>na</b>
<b>Harrisburg PA</b>	<b>170</b>	<b>363</b>	<b>29</b>	<b>208</b>	<b>114%</b>	<b>611%</b>	<b>5 to 1</b>
<b>Lancaster PA</b>	<b>76</b>	<b>324</b>	<b>8</b>	<b>199</b>	<b>324%</b>	<b>2,332%</b>	<b>7 to 1</b>
Reading PA	109	240	9	101	55%	281%	5 to 1
<b>Erie PA</b>	<b>152</b>	<b>195</b>	<b>30</b>	<b>79</b>	<b>28%</b>	<b>164%</b>	<b>6 to 1</b>
<b>York PA</b>	<b>79</b>	<b>193</b>	<b>9</b>	<b>119</b>	<b>145%</b>	<b>1,203%</b>	<b>8 to 1</b>
Altoona PA	87	83	14	38	-5%	166%	na
Johnstown PA	93	76	15	43	-18%	191%	na
	other urbanized areas (year data began)						
State College PA (1980)	52	71	14	21	39%	53%	1.4 to 1
Williamsport PA (1980)	59	59	23	27	0%	17%	na
Monessen PA (1980)	66	57	41	37	-14%	-11%	na
Pottstown PA (1990)	53	74	27	55	38%	101%	3 to 1
Uniontown-Connellsville PA (2000)	na	58	na	45	na	na	na
Hazleton PA (2000)	na	52	na	29	na	na	na
Brookings 8 (1950-00)	5,854	8,938	908	3,706	53%	309%	6 to 1
Pennsylvania 11 (1950-00)	6,143	9,337	946	3,888	52%	311%	6 to 1
157 UAs (1950-00)	69,269	152,890	12,850	52,090	121%	305%	2.5 to 1
146 UAs w/o PA (1950-00)	63,126	143,553	11,904	48,202	127%	305%	2.4 to 1

Trends in Pennsylvania's urbanized areas were quite diverse over the past half a century. To set a standard of comparison, we've analyzed 50-year trends for 146 non-Pennsylvania urbanized areas that the Census Bureau first designated in 1950; as a group, their population grew by 127 percent (that is, more than doubled) while urbanized land expanded by 305 percent (that is, more than quadrupled). Their land growth-to-population growth ratio was 2.4 to 1.

Several of Pennsylvania's urbanized areas experienced population growth at rates about the same or greater than the national average (Harrisburg, York, Allentown-Bethlehem, and, especially, Lancaster); York and Lancaster, in particular, that were very compact areas in 1950, urbanized land at prodigious rates. Most urbanized areas' populations grew slowly or even declined (Altoona, Johnstown, and Scranton-Wilkes Barre). However, with the exception of the Scranton-Wilkes Barre area, they urbanized land at rates that were several multiples of their rates of population growth.<sup>9</sup>

<sup>9</sup> The Lackawanna Valley saw apparent reduction in urbanized land between 1950 and 2000 – frankly, an impossible occurrence. (Even the city of St. Louis, which has lost 60 percent of its peak population, has not seen any of its land “de-urbanized.”) The reduction probably reflects an overdue change in Census Bureau methodology in which it no longer counts *all* land within a partially urbanized municipality as urbanized. In past decades, the Census Bureau probably classified one or more suburban townships as fully “urbanized” when they still contained substantial undeveloped land. That correction was first implemented for Census 2000. As a result, urban sprawl appeared to have slowed during the 1990s for

Overall, the eleven major urbanized areas in Pennsylvania (that is, those dating from 1950) consumed land at six times the rate of population growth.

For some analysts of urban sprawl, measuring growth of urbanized population against growth of urbanized land is an unsatisfactory approach whose principal virtue is a reasonably consistent chain of data back to 1950. Moreover, the land growth-to-population growth ratio is very sensitive to changes in population growth. The lowest ratios in Table 2.2 (ranking states) are found in California, Texas, Florida, Arizona, and Utah – states that are generally held up as the epitome of urban sprawl.<sup>10</sup>

Table 2.2 also measures (and ranks the states by) population density (residents per square mile). Population density and land growth-to-population growth ratios tell much the same story. California – the environmentalists' *bete noire* of urban sprawl – actually has the densest urbanized areas in the nation. New York City (26,404 residents per square mile in 2000) boosts New York State's ranking to second; without the New York NY-NJ-CT region, New York State would rank 24<sup>th</sup> at 2,322 residents per square mile in its five remaining urbanized areas (Buffalo, Albany, Rochester, Syracuse, and Binghamton).

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some regions, because the amount of land counted as already urbanized was inflated in the decades leading up to the 1990s.

<sup>10</sup> At 6.0 to 1, Pennsylvania ranks second only to neighboring West Virginia's 15.0 to 1. Two of Pennsylvania's "little boxes" neighboring states also rank high in rate of land consumption to rate of population growth: New York (4.4 to 1 – despite the inclusion of New York City) and Ohio (3.9 to 1). Maryland (a "Big Box" state whose urbanized areas are Greater Baltimore and the Washington, DC area) is closer to the national average (3.2 to 1). New Jersey (another "little boxes" state) ostensibly falls right on the national land-to-population growth ratio (2.4 to 1), but its state "average" covers only the Trenton and Atlantic City urbanized areas. Both its South Jersey counties and its Northern New Jersey counties are incorporated into the Greater Philadelphia (6.1 to 1) and Greater New York (3.7 to 1) urbanized areas, respectively.

**Table 2.2**  
**Ranking states (out of 40) by population density (residents per square mile)**  
**of 1950-era urbanized areas in 2000**

State	urbanized areas	density	ratio
1. California	7 areas	5,193	0.9 to 1
2. New York	6 areas (incl. New York City)	4,521	4.4 to 1
3. Utah	Salt Lake City	3,847	0.7 to 1
4. Colorado	Denver, Pueblo	3,816	1.3 to 1
5. Arizona	Phoenix	3,638	1.1 to 1
6. Illinois	6 areas (incl. Chicago)	3,598	3.1 to 1
7. Oregon	Portland OR-WA	3,340	1.5 to 1
8. Maryland	Baltimore, Washington DC-MD-VA	3,267	3.2 to 1
9. Florida	Miami, Tampa, Orlando, Jacksonville	3,243	1.1 to 1
10. Texas	11 areas	2,922	1.1 to 1
11. Virginia	4 areas (incl. Washington DC-MD-VA)	2,842	2.8 to 1
12. Nebraska	Omaha, Lincoln	2,802	2.1 to 1
13. Louisiana	New Orleans, Baton Rouge, Shreveport	2,785	1.3 to 1
14. Washington	Seattle, Spokane	2,778	1.7 to 1
15. Wisconsin	Milwaukee, Madison, Racine	2,701	5.0 to 1
16. Michigan	6 areas (incl. Detroit)	2,629	4.5 to 1
17. Minnesota	Minneapolis-St. Paul, Duluth	2,610	1.5 to 1
<b>18. Pennsylvania</b>	<b>11 areas (incl. Philadelphia, Pittsburgh)</b>	<b>2,402</b>	<b>6.0 to 1</b>
21. New Jersey	Trenton, Atlantic City	2,327	2.4 to 1
23. Ohio	9 areas	2,351	3.9 to 1
27. Massachusetts	Boston, Springfield, Worcester, New Bedford	2,198	4.5 to 1
38. West Virginia	Charleston, Huntington, Wheeling	1,633	15.0 to 1

The top two are followed by a dozen “Big Box” states with the sole exception of Illinois, where, similar to New York, the presence of the city of Chicago (12,752 residents per square mile) boosts Illinois’ ranking. Only at the virtual mid-point of the 40 states ranked do we enter the realm of “little boxes” regions – Wisconsin, Michigan, Minnesota, and Pennsylvania.

What forces are at work here? One major factor is that, in the semi-arid West, most urbanization can only occur through hooking on to public water and sewer systems. Most new subdivisions are annexed by nearby municipalities as an essential step in the development process and consequently are built to municipal standards. That stands in sharp contrast with practices in the humid East and South where very low-density “urbanization” often occurs by serving scattered homes with on-site wells and septic tanks. Western urbanization looks more sprawling because it is so visible on the deserts and high plains. Much lower-density urbanization in the East and South is hidden by tree cover and behind rolling hillsides.

But patterns of local governance make a difference as well. Most “little boxes” jurisdictions in the East and Middle West are highly dependent on local property taxes. Their planning and zoning powers extend only to their city or township limits, and they typically have no way to share in their neighbor’s good fortune so they are constantly chasing desirable tax ratables. The prevailing

governmental ethos of “little boxes” regions is “each man for himself and the Devil take the hindmost.” This promotes an almost senseless pattern of constant sprawl.

By contrast, in the South and West “Big Box” governments dominate their regions and often have extra-jurisdictional planning powers over unincorporated lands near-by. Through annexation, “Big Box” governments maintain broad, diverse tax bases. They can typically pick and choose among development alternatives more than can “little boxes.” Governance, not climate, helps explain why “Big Box” states like Maryland and Florida can – and do – control urban sprawl reasonably successfully even in the humid East and South.

What are the consequences when decade by decade more and more land is urbanized ever farther from the urban core while local jurisdictions’ boundaries remain fixed? We’ll examine the consequences first for “central cities,” then for successive rings of urbanizing suburbs.

### **3. Consequences: Declining Central Cities**

For Census 2000, the Census Bureau designated 541 “central cities” in the nation’s 331 metropolitan areas. During the 1990s, of about 400 central cities that could annex land, 348 did.<sup>11</sup> Collectively, in just one decade they expanded their municipal territory from 15,658 square miles to 18,355 square miles – about a 17 percent increase, or almost 2,700 square miles (an area slightly larger than the entire state of Delaware). Though most annexations occurred in the South and West, two dozen cities in strong township states did succeed in annexing land. Such “elastic” cities generally succeeded in defending their “market share” of regional growth; their populations grew, they maintained reasonable economic parity with their suburbs, and they are generally fiscally healthy. (*None* had less than an A3 bond rating in 2002, according to Moody’s Investors Service.)

That is not the case with some 140 boundary-frozen, “inelastic” central cities – more specifically, with Pennsylvania’s 22 “inelastic” central cities. Nineteen of the 22 cities are trapped in constant population and economic decline. Table 3.1 traces their decline by measuring them against three critical milestones: a) a 20 percent or more loss of population since its population peak, b) a disproportionate minority population in the city compared to the suburbs (typically, 3 to 1 or more), and c) a large and growing gap between city per capita income and suburban per capita income (70 percent or less).

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<sup>11</sup> Central cities that could not annex land included 95 in New England, New York, New Jersey, and Pennsylvania; Virginia’s 15 larger “independent cities”; and about two dozen older central cities (like Cleveland, Detroit, and Chicago) that were completely surrounded by incorporated suburbs or were

**Table 3.1  
Pennsylvania's Declining Central Cities**

	pop. loss since peak by 1990	pop. loss since pop. by 2000	Black & Hispanic pct of pop. in 1990	city- Black & Hispanic pct of pop. in 2000	city suburb ratio of minority income in 2000	city income as pct of suburb income in 1990	income as pct of suburb peak in 2000
Reading	-29%	-26%	27%	51%	14 to 1	70%	56%
<b>Philadelphia</b>	<b>-23%</b>	<b>-27%</b>	<b>45%</b>	<b>53%</b>	<b>3 to 1</b>	<b>64%</b>	<b>60%</b>
State College	-1%	-1%	5%	7%	2 to 1	65%	60%
<b>York</b>	<b>-30%</b>	<b>-32%</b>	<b>28%</b>	<b>45%</b>	<b>17 to 1</b>	<b>71%</b>	<b>61%</b>
<b>McKeesport*</b>	<b>-53%</b>	<b>-57%</b>	<b>18%</b>	<b>28%</b>	<b>5 to 1</b>	<b>62%</b>	<b>61%</b>
<b>Norristown*</b>	<b>-21%</b>	<b>-20%</b>	<b>29%</b>	<b>47%</b>	<b>3 to 1</b>	<b>72%</b>	<b>65%</b>
<b>Lancaster</b>	<b>-13%</b>	<b>-12%</b>	<b>32%</b>	<b>47%</b>	<b>12 to 1</b>	<b>72%</b>	<b>66%</b>
<b>Easton*</b>	<b>-26%</b>	<b>-26%</b>	<b>14%</b>	<b>24%</b>	<b>6 to 1</b>	<b>71%</b>	<b>67%</b>
<b>Lebanon</b>	<b>-17%</b>	<b>-19%</b>	<b>8%</b>	<b>20%</b>	<b>3 to 1</b>	<b>74%</b>	<b>68%</b>
<b>Harrisburg</b>	<b>-42%</b>	<b>-45%</b>	<b>57%</b>	<b>69%</b>	<b>11 to 1</b>	<b>72%</b>	<b>69%</b>
<b>Allentown</b>	<b>-4%</b>	<b>-3%</b>	<b>16%</b>	<b>34%</b>	<b>9 to 1</b>	<b>81%</b>	<b>69%</b>
<b>Wilkes Barre</b>	<b>-45%</b>	<b>-50%</b>	<b>4%</b>	<b>7%</b>	<b>4 to 1</b>	<b>84%</b>	<b>71%</b>
<b>Erie</b>	<b>-21%</b>	<b>-25%</b>	<b>14%</b>	<b>20%</b>	<b>8 to 1</b>	<b>80%</b>	<b>76%</b>
<b>Scranton</b>	<b>-42%</b>	<b>-46%</b>	<b>2%</b>	<b>6%</b>	<b>3 to 1</b>	<b>89%</b>	<b>77%</b>
<b>Bethlehem</b>	<b>-5%</b>	<b>-5%</b>	<b>16%</b>	<b>23%</b>	<b>6 to 1</b>	<b>86%</b>	<b>80%</b>
Williamsport	-29%	-32%	7%	15%	7 to 1	84%	81%
<b>Hazleton*</b>	<b>-35%</b>	<b>-39%</b>	<b>1%</b>	<b>6%</b>	<b>3 to 1</b>	<b>92%</b>	<b>82%</b>
Johnstown	-58%	-65%	10%	14%	6 to 1	79%	83%
<b>Pittsburgh</b>	<b>-45%</b>	<b>-51%</b>	<b>27%</b>	<b>29%</b>	<b>5 to 1</b>	<b>87%</b>	<b>86%</b>
Altoona	-35%	-38%	2%	4%	4 to 1	88%	86%
Sharon	-34%	-38%	9%	13%	3 to 1	92%	89%
<b>Carlisle</b>	<b>0%</b>	<b>-2%</b>	<b>7%</b>	<b>10%</b>	<b>2 to 1</b>	<b>91%</b>	<b>94%</b>

\*de-designated as central cities after 1990 census

Fifteen of the 22 cities lost population in the 1990s (though typically they were not hemorrhaging residents as they had in previous decades – largely because of Hispanic immigration). Every city saw an increase in its black and Hispanic population – and an increase in its disproportionate share as well. Every city except Johnstown and Carlisle experienced a growing average income gap with its suburbs. The double digit declines in York, Reading, Allentown, Scranton, Wilkes Barre, and Hazleton were among the largest proportionate decreases in the nation.

Finally, after analyzing the 1990 census, the Census Bureau de-designated Norristown, McKeesport, Hazleton, and Easton as central cities, deeming them no longer significant regional employment centers. Their diminished importance reflects both local job losses and growing employment centers in nearby townships. Loss of central city status is a telling official judgment regarding urban decline.

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already consolidated city-counties (like Baltimore, Denver, New Orleans, Philadelphia, San Francisco, St. Louis, Indianapolis, Nashville, and Jacksonville).

#### **4. Consequences: Slumping Boroughs and Faltering Inner Townships**

The combination of constant urban sprawl and fixed jurisdictional boundaries is not only lethal to central cities. Almost every borough in Pennsylvania is now declining as well. Between 1970 and 1990, for example, mean household income as a percentage of metro mean household income declined in every borough in Lancaster County except Lititz, every borough in Lehigh County except Macungie, every borough in Northampton County except West Easton, every borough in Berks County except Wyomissing, Wyomissing Hills, West Lawn, and Fleetwood, and every borough without exception in York County and Greater Philadelphia. During the 1990s, median household income as a percentage of metro median household income dropped in every one of those boroughs listed above except Macungie in metro Allentown-Bethlehem. A review of all Pennsylvania's metro areas would undoubtedly tell much the same story.

Pennsylvania's cities average 8.3 square miles in size. Though much smaller than "elastic" central cities elsewhere, they are giants compared to most boroughs that rarely exceed one or two square miles at most.<sup>12</sup> Without strong, state-mandated, anti-sprawl land use controls that redirect market investment back inward, most Pennsylvania cities and boroughs are condemned to slow demographic and economic death.

Townships are larger, averaging about 10 square miles for first-class townships and about 28 square miles for second-class ones. But, with fixed boundaries as well, townships are not exempt from the Iron Law of Urban Sprawl: "Today's winners become tomorrow's losers." As uncontrolled development moves outward from the urban core, successive rings of townships rise, hit their demographic and economic peaks, and then begin to age and decline decade by decade.

#### **5. Consequences: Racial and Economic Segregation**

My own research linking "little boxes" regions to higher racial and economic segregation has recently received strong support. University of Pittsburgh's David Y. Miller has published a short, but definitive book on *The Regional Governing of Metropolitan America* (Westview Press: 2002). Based on rigorous statistical research of all metro areas, Miller reaches key findings about the impact of governmental fragmentation (that Miller labels "diffusion"). "Even when accounting for population [size] and region [of the country]," Miller finds, "jurisdictional diffusion is significantly and unquestionably linked to Black segregation in metropolitan America."

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<sup>12</sup> The 72 elastic central cities analyzed in *Cities without Suburbs* averaged 189 square miles in size in 2000.

Pennsylvania's metro areas have far fewer blacks and Hispanics (8 percent) than the national average of 331 metro areas (32 percent), yet they are much more segregated for blacks (a segregation index of 62) and for Hispanics (47) than the national metro averages (51 and 39 for blacks and Hispanics, respectively).<sup>13</sup>

Economic segregation indices have only been calculated as yet for 104 large metro areas. In 2000 metro Philadelphia (46) had the third highest level of economic segregation, yet the Scranton-Wilkes Barre metro area had the third lowest level (23). Of the rest, Allentown-Bethlehem had a relatively high index, but Pittsburgh, Lancaster, and Harrisburg were all below the national average for 104 metro areas (34.5).

Why were the Philadelphia and Lackawanna Valley regions at opposite ends of the spectrum? They had identical regional poverty rates in 1999 (11.1 percent). The explanation can be found in their relative minority populations. Blacks and Hispanics were 25 percent of Greater Philadelphia's population, but only 3 percent of the Lackawanna Valley's. Poor whites don't live segregated in poor neighborhoods, but are scattered throughout middle class and working class neighborhoods and rural areas. In metro Philadelphia, for example, in 1989, only 24 percent of the region's 197,000 poor whites lived in census tracts where poverty rates exceeded 20 percent. By contrast, 79 percent of the region's 229,000 poor blacks and 85 percent of the region's 56,000 poor Hispanics lived in high-poverty ghettos and barrios. The Scranton-Wilkes Barre region had virtually no minorities; ergo, it had a very low economic segregation index.

Racially segregated neighborhoods are typically economically segregated neighborhoods and governmentally fragmented regions are associated with greater segregation. "Too much diffusion of power in metropolitan areas," Miller observes, "serves to increase the probability of racial segregation and to deter the ability of the metropolitan region to take advantage of economic expansion occurring within the region."

## **6. Consequences: Slower Regional Economic Growth**

Miller also finds that systems of local governance affect economic development. "At least historically," he writes, "power devolved to the local governments within the state creates the necessary condition for greater economic performance. However, when local governments fail to

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<sup>13</sup> The "segregation index" used is a common "dissimilarity index" that measures how evenly or unevenly a minority population (e.g. blacks, Hispanics, poor people, etc.) is distributed compared to the majority population (e.g. non-Hispanic whites, non-poor people, etc.). On a scale of 0 to 100, 100 equals total racial or economic apartheid, while 0 means a totally even distribution in all census tracts.

unify that devolved authority at the metropolitan level, the opportunity is lost.... Centralized state systems and decentralized metropolitan region systems under-perform, in economic development, empowered but more centralized metropolitan regions.”

A key to Pennsylvania’s economic stagnation has been the sharp decline in manufacturing employment – historically, the state’s lead economic sector. The causes of the decline in manufacturing employment in the American economy are complex – technological changes and a much more skilled labor force leading to major increases in productivity, international competition, Rust Belt to Sun Belt relocation, etc. – and I am not about to argue that the fragmentation of the Pittsburgh region into micro-governments, for example, led to the decline of its steel industry. Manufacturing bulked larger than the national average in most of Pennsylvania regional economies, and, coming into the 1970s and 1980s, they were headed for major factory job losses regardless.

De-industrialization of the labor force hit many Pennsylvania regions hard; eight of the 14 metro areas lost over one-third of their factory jobs, led by Pittsburgh (-55 percent). This compared with the national economy’s having reduced industrial employment by only 6 percent over the three decades. On the other hand, York (-12 percent), Harrisburg and, surprisingly, Erie (both -18 percent) suffered relatively small factory job losses compared to other Pennsylvania regions. Manufacturing jobs actually increased in State College (+31 percent) and Lancaster (+7 percent), reflecting, in part, the expansion of industries like dairy products, printing, and other non-durables to support a growing population.

However, creation of new, non-manufacturing jobs is some measure of how effectively they responded to the crisis in their smokestack industries. Only State College (+159 percent), Lancaster (+135 percent), and the Lehigh Valley (+108 percent) created non-manufacturing jobs at a faster rate than the national economy (+105 percent). The net effect was overall rates of job creation far below the national average (+80 percent) for all regions except State College (+138 percent), Lancaster (+87 percent), and Harrisburg (+70 percent).

The preceding sections 1 through 6 have briefly documented each of the opening statements I made in this paper.

\* The Commonwealth of Pennsylvania has created the nation’s most fragmented system of local government within its metropolitan areas.

\* State policies have contributed to uncontrolled urban sprawl by making its “little boxes” governments so highly dependent on local property taxes, promoting a constant ratables

chase. Over the last fifty years Pennsylvania ranks second only to West Virginia in consuming the most land for the least population growth.

\* The combination – constant outward development overlaying a pattern of immutable local government boundaries – has condemned Pennsylvania’s “inelastic” central cities, most boroughs, and many “built-out” townships to population, economic, and fiscal decline.

\* The many governmental “little boxes” actively contribute to the high degree of racial and economic segregation that characterizes Pennsylvania’s metropolitan areas.

\* Whether through costly inefficiencies, high social and economic disparities, or cutthroat inter-municipal competition, Pennsylvania’s governmental system of “little boxes” also retards its economic growth.

Sprawl and steady abandonment of “inelastic” central cities, most boroughs, and many “built-out” townships also implicitly means abandonment (or certainly underutilization) of existing physical infrastructure (houses, stores, factories, water and sewer lines, etc.) that cost prior generations a fortune to create originally and is even more expensive to duplicate anew. Discarding this investment is decidedly fiscally wasteful.

I’ll now turn to consideration of governance reforms.

## Part II: Governance Reforms: Introduction

Don Hutchinson, former Baltimore County Executive and then president of the Greater Baltimore Committee, once said, “if regionalism isn’t dealing with land use, fiscal disparities, housing, and education, then regionalism isn’t dealing with the issues that count.”

From the perspective of this paper, that statement could apply equally to reform of Pennsylvania’s fragmented system of local governance. Indeed, I would reduce the list to three issues since public education is largely derivative of housing patterns. Where a child lives substantially shapes the child’s educational opportunities – not in terms of how much money is spent but (as almost four decades of research has shown) in terms of whom the child’s classmates are. Housing policy *is* school policy.<sup>14</sup>

In Pennsylvania, local government officials often cite inter-municipal road maintenance and snow removal agreements or mutual aid pacts among police and fire departments as examples of regional cooperation. Such agreements, of course, are valuable. Providing better services for a taxpayer’s dollars is always desirable.

But such joint activities fall into the category of what I call promoting *greater service efficiency*, whereas the analysis on the preceding pages really conveys a breakdown in achieving *greater social effectiveness*. Local governments could implement a great many service efficiency agreements and have no impact whatsoever on land use, social, and economic patterns.

The core question of regional governance is “what gets built where for whose benefit?” This involves land use and transportation planning and zoning as they shape residential, commercial, and industrial development; public infrastructure investments; and local tax abatement and other public development subsidies. As a practical matter, Pennsylvania state law provides the myriad of “little boxes” governments with almost no ways to answer that question beyond their own municipal boundaries.<sup>15</sup> Indeed, there is rarely a meaningful regional forum in which such a question can even be asked.

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<sup>14</sup> See Richard Kahlenberg. *All Together Now: Creating Middle-Class Schools through Public School Choice*. Brookings Institution Press: Washington, DC (2001) and *Divided We Fail: Coming Together through Public School Choice: The Report of The Century Foundation Task Force on the Common School*. The Century Foundation Press: New York, NY (2002) for a fuller discussion of the potential benefits of greater socioeconomic integration on public education.

<sup>15</sup> Aside from special service districts that sometimes achieve quasi-regional coverage (such as an airport authority), there are only two general exceptions to this statement. First, the federal government gives so-called “Metropolitan Planning Organizations” (often voluntary regional councils of government) significant decision-making responsibility for allocation of federal highway and transit grants. Second,

Overcoming such fragmentation of local governance is pragmatically beyond the capabilities of local elected officials. State government must act. In fact, only state government *can* act for (as will be discussed at length below) in Pennsylvania, as throughout this nation, how local governments fundamentally are organized and what they are empowered to do is a function of *state* law – not a function of either national law nor of some founding act of residents of an area gathered spontaneously in some common assembly. Municipal governments are not sovereign unto themselves but instruments of the Commonwealth of Pennsylvania to carry out governance functions assigned by the state at a local level as “creatures” of the state and not as fiefdoms unto themselves.

There are basically only two policy paths that the Governor and General Assembly can follow to reverse the consequences of its “little boxes” governance system in an age of sprawl: either change its present system of local government (structural reform), or set new state rules for how the present system of local government carries out key responsibilities (functional reform). Both paths will be categorized in terms of political feasibility: relatively easy; relatively hard; and optimal.

## **Part IIA: Structural Reform**

### **7. Background**

Local governance in Pennsylvania appears to be caught in cumbersome constitutional and statutory grip. All land area within the Commonwealth is “incorporated” by law under a municipal government.<sup>16</sup> There are three primary types, or “classifications,” of municipal governments: *Boroughs*, *Townships* of the First or Second Class, and *Cities* of the First Class (Philadelphia), Second Class (Pittsburgh), Second Class A (Scranton), and Third Class (all others).

All municipal governments operate under the respective codes (laws) applicable to their classification of government as enacted by the General Assembly. In addition, some municipal

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the Pennsylvania General Assembly has given county governments the power to plan and implement storm drainage management for multi-municipal watersheds.

<sup>16</sup> This appears to be a statutory provision of the General Assembly since I cannot find such a requirement in the Constitution. These two paragraphs are copied from a 1993 report on “Municipal Merger and Consolidation Issues in Pennsylvania” prepared by Alan R. Kugler, now President of PA Futures in Erie. I have also drawn extensively for this section on his 1999 report “Addressing Needed Changes in Pennsylvania’s Local Governance. My Kugler has consulted on numerous campaigns to merge or consolidate municipalities. I am greatly indebted to Mr. Kugler for sharing his knowledge and experiences with me.

governments have adopted “Home Rule Charter” or “Optional Plan” forms of government available to them under Pennsylvania Law.<sup>17</sup>

Article IX (Local Government): Section 8 (Consolidation, Merger or Boundary Change) of the state constitution provides that “[t]he electors of any municipality shall have the right, by initiative and referendum, to consolidate, merge and change boundaries by a majority vote of those voting thereon in each municipality, without the approval of any governing body...”

According to a 1993 essay by Alan R. Kugler, Pennsylvania’s acknowledged expert on municipal mergers and consolidations,

“a problem is that the Constitution does not give guidance to other big questions that arise when citizens try to consider and implement merger or structural consolidation. For example, the Constitution is silent on consideration of form of government such as “home rule” and many questions of transition procedures. It is precisely the questions of form of government and transition procedures that cloud consideration of merger and structural consolidation.

“Of course, the framers of the Constitution [adopted in 1874] knew that these questions would arise so the Constitution [in Section 8] also states that ‘[t]he General Assembly shall, within two years following the adoption of this article, enact uniform legislation establishing the procedure for consolidation, merger or change of the boundaries of municipalities.’

“Unfortunately, [the Pennsylvania Economy League document continues] the General Assembly has failed to act, and the Pennsylvania Supreme Court has ruled that in the absence of uniform boundary change legislation, all preexisting legislation found in the Borough, Township, and City Codes regarding merger, consolidation, and annexation is abrogated. Therefore, the only remaining procedure is that found in the Constitution itself.

“Since the Constitution is silent on key questions, *enabling legislation was never passed* [emphasis added], and the courts have invalidated other laws that may offer guidance, many questions can not be easily answered.”

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<sup>17</sup> That statement applies to county government as well. Though the constitution specifies that counties shall be governed by three-member boards of commissioners, six counties (including Erie, Lehigh, Northampton, and, most recently, Allegheny) have adopted a county executive/county council form.

Within such a political and legal morass, municipal mergers and consolidations did not occur for decades.<sup>18</sup> The laborious consolidation of St. Marys Borough and Benzinger Township into a new City of St. Marys, effective in January 1994, was the first municipal government consolidation in the Commonwealth since 1956. It required the approval by the electorate of both municipalities, going to the polls three times in one year just to get the form of government they wanted for their new city.<sup>19</sup>

However, based on the example of the St. Marys consolidation, the legislature finally approved Act 90 in 1994, setting forth procedures for mergers and consolidations. Municipal mergers and consolidations have inched forward with eight approved and eleven rejected by voters over the past dozen years. “Many others, Kugler notes, “have not made it to a vote.”

With the exception of a failed effort to consolidate State College borough with two abutting townships, which would have created a Third Class City of State College with more than 58,000 residents, municipalities that have undertaken mergers and consolidations have been relatively small (averaging less than 7,000 residents ) and overwhelmingly racially homogeneous (averaging 96 percent Anglo).

Moreover, such merger/consolidation efforts have been largely restricted to rural areas. Of the 19 mergers/consolidations that either succeeded or failed at the polls, 12 occurred in non-metropolitan counties. Only two (Muhlenberg Township and Wyomissing Borough in metro Reading/Berks County) involved immediate suburbs of central cities. Only State College’s failed effort sought to expand a central city itself. None involved municipalities with sharply distinct racial and economic profiles.

There could be alternatives to this laborious and cumbersome process. Though I am not an attorney (much less an expert in Pennsylvania’s legislative statutes and case law), I can read constitutions. That same Article IX, Section 8 (Legislative Power) further prescribes that “[n]othing herein shall prohibit or prevent the General Assembly from providing additional methods for consolidation, merger or change of boundaries [emphasis added].” In short, it appears that the General Assembly has a free hand constitutionally to rework local governance in Pennsylvania – if the General Assembly and the Governor summon the political will to do so.

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<sup>18</sup>A “merger” melds one or more entities into a surviving municipality. A “consolidation” technically dissolves the existing entities and results in an entirely new municipality. .

<sup>19</sup>One can hardly imagine the political, legal, and procedural hurdles currently faced by community advocates proposing the consolidation of *five* municipalities – Sharon, Hermitage, Farrell, Sharpsville, and Wheatland – in the Shenango Valley.

Moreover, other sections of Article IX would encourage formation of more regional bodies. Immediately preceding Section 8, Section 6 (Area Government) directs that “the General Assembly shall provide for the establishment and dissolution of government of areas involving two or more municipalities or parts thereof.” Section 7 (Area -wide Powers) further specifies that “the General Assembly may grant powers to area governments or to municipalities within a given geographical area in which there exists intergovernmental cooperation or area government and designate the classes of municipalities subject to such legislation.” That certainly suggests that the General Assembly has the power to organize regional or sub-regional levels of government to exercise the powers the legislature gives them.

Another provision, however, in Article III (Legislation), Section 32 (Certain Local and Special Laws) might seem to limit the legislature’s flexibility. It states, in part, that

“the General Assembly shall pass *no local or special law* [emphasis added] in any case which has been or can be provided for by general law and specifically the General Assembly shall not pass any local or special law.

1. Regulating the affairs of counties, cities, townships, wards, boroughs, or school districts....
3. Locating or changing county seats, erecting new counties or changing county lines.... [or]
4. Erecting new townships or boroughs, changing township lines, borough limits or school districts....”

That would suggest that the General Assembly cannot enact structural governance laws targeted on a specific community or set of communities. Such prohibitions against “special legislation” are common in state constitutions, but are “more honour’d in the breach than the observance.” Legislatures typically get around such strictures by passing “general laws” that apply, for example, to “any Class Three City whose population in the last decennial census was not less than 40,000 persons nor more than 42,000 persons located in a county whose population in the last decennial census was not less than 380,000 persons nor more than 382,000 persons” – a “general” definition that could only apply to the city of York.

Thus, my working assumption is that, in approaching the challenge of reforming local governance structurally, the General Assembly and the Governor would not be unduly limited by the Constitution of the Commonwealth of Pennsylvania.

## 7a. Structural Reform (Relatively Easy)

Kugler recommends a wide range of further technical amendments to Act 90 that would clarify and ease the path to mergers and consolidations and mergers.<sup>20</sup> Among his principal recommendations are<sup>21</sup>

- allowing a citizen initiated petition for consolidation to include a proposed home rule charter as part of the vote. Approval of the consolidation vote would mean approval of the charter;
- allowing a vote on consolidation to include parts of existing municipalities, not just entire municipalities. This would enable the urbanized area of a township to be included as part of a newly consolidated government, leaving the rural portion of the township intact;
- in proposed consolidations of three or more municipalities, allowing consolidations to take place among the remaining approving municipalities even if one or more participating jurisdictions disapproves the vote. In this way, disapproval of one municipality would not necessarily defeat consolidation for all the others. (“Of course,” Kugler comments, “those jurisdictions that do not approve the vote would not be compelled to be part of the consolidation.”)

Such legislation should provide more than just a clear procedural roadmap for implementing the prevailing constitutional provision requiring approval by referendum by the electorates of each municipality involved. It should also provide an alternative path not currently available.<sup>22</sup>

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<sup>20</sup> In the 2003 session an additional reform was enacted as House Bill 77 that overcame a legal obstacle preventing citizen initiative of a new home rule charter. The Municipal Consolidation or Merger Act did not permit citizen initiative of a consolidation vote with a new home rule charter drafted for that vote; citizens had to work through the existing governing bodies, essentially obtaining their approval, before a new home rule charter can be brought to the ballot upfront. House Bill 77 permitted the citizens of multiple adjacent municipalities to conduct a referendum for the election of a joint Government Study Commission that would be empowered to recommend consolidation of the governments under a new home rule charter created by the Commission. In the event the Commission recommended consolidation and a new home rule charter they drafted, this would automatically go to ballot in the effected municipalities. This legislation passed both the House and Senate by unanimous votes and was signed by Governor Rendell on October 22, 2003. It will become effective by the end of 2003 and will be available to the voters in 2004. In Kugler’s view, “Once citizens understand this option is available, it will dramatically change the approach to consolidation and merger.”

<sup>21</sup> See Kugler’s “Municipal Merger and Consolidation Issues in Pennsylvania” for a full discussion of desirable amendments to Act 90.

<sup>22</sup> This recommendation is also supported by Kugler.

The new state law should allow many municipal governments to go out of existence. Many boroughs (and some townships) are too small or too poor to be viable local governments. York County, for example, has 36 boroughs that average 1,850 residents (less than 1,500 if Hanover Borough with its 14,535 residents is excluded). Exactly half of the boroughs have less than 1,000 residents, ranging down to tiny Yorkana Borough with 277 residents.<sup>23</sup> State law should permit voters to de-municipalize boroughs, automatically melding back into the surrounding township without providing township voters any veto to reject the new arrangement. Similarly, struggling cities and townships could give up the ghost, with county government taking over responsibility for all municipal functions. In all cases, the tax bases of the de-municipalized entities would revert to their new governmental hosts.

The process would be analogous to recent school district mergers in Tennessee. Tennessee law requires counties to maintain unified, county-wide school districts. Tennessee law also permits cities the option of establishing their own separate school districts. In recent years, many city school districts (such as Knoxville and Chattanooga), with poverty-impacted enrollments, have voted to dissolve their city districts, automatically reverting to the surrounding county-wide system without any veto power extended to “county” voters over the process. Memphis is the only major city still maintaining a separate city school district.

This provision would allow for the elimination of micro-governments that are not fiscally viable. Currently, thirteen fiscally distressed municipalities receive direct financial assistance from the state under Act 47, the Municipalities Financial Recovery Act of 1987. These certainly would be prime candidates for being folded into more viable local entities.

### **7b. Structural Reform (Relatively Hard)**

1). A new state law should provide an alternative method for mergers and consolidations that would allow “single-box” voting. In addition to the current constitutional provision for separate referenda in each affected jurisdiction, a new state law should allow a petition submitted by five percent of the voters in the affected jurisdictions *combined* to opt for a single, area-wide referendum. The merger or consolidation would go into effect in all affected jurisdictions if a majority of voters within the entire area approved. This would prevent small minorities from exercising veto power over mergers.

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<sup>23</sup> By analogy, the city of Albuquerque, New Mexico (448,607) has slightly over 200 neighborhood associations, averaging less than 2,250 residents in neighborhood. It would never occur to anyone in Albuquerque that neighborhood associations should be re-constituted as free-standing municipalities. They would not be viable governments.

This alternative, of course, could be seen as an implicit form of annexation in which little fish are eaten by bigger fish. It is a procedure by which voters of cities could act to absorb sequentially adjacent boroughs and townships. As such, the process would require some sort of state referee. Article IX, Section 8 (Study) contains a fourth provision (also never implemented) that directs that “[t]he General Assembly shall designate an agency of the Commonwealth to study consolidation, merger and boundary changes, advise municipalities on all problems which might be connected therewith, and initiate local referendum.” Such an agency could be provided by state law with both standards to apply to such mergers and certain regulatory powers. Many states, for example, set statutory standards for areas to be annexed by municipalities, including requirements for contiguity and guarantees of the provision of timely services and facilities to the annexed areas. Such statutory provisions are enforceable either by special state boundary commissions or by state courts.

Unlike some state annexation laws (notably in Texas, Tennessee, and North Carolina), this proposed merger process must still be approved by popular referendum rather than by simple action of the larger municipality’s governing body. However, it would facilitate merger of municipalities and re-endow cities with a degree of “elasticity” essential if they are to survive as viable communities and not become the Camdens of Pennsylvania.

2). Also falling into the “relatively hard” category politically would be action by the Pennsylvania General Assembly paralleling action by the Georgia legislature in the mid-1990s. Burdened by 536 municipalities – many of them country crossroads hamlets that were not viable – the Georgia legislature set minimum service standards for municipalities. It statutorily designated seven basic municipal services; any municipality that did not provide at least four of the seven basic services would be dissolved and its service responsibilities and regulatory powers would revert to its county government. (Georgia has 157 counties, second only to Texas’s 254 counties, and more than twice as many as Pennsylvania’s 66 counties.)<sup>24</sup>

Rather than relying on local voters’ initiative to self-eliminate non-viable mini-municipalities (which will be rare) and tiring of appropriating Act 47 funds constantly, the General Assembly could enact a Georgia-type law that would set minimum population size and service standards for municipalities. Those not meeting the minimums would automatically be dissolved and revert to the appropriate township or county.

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<sup>24</sup> Even this legislative action was not very successful. Only 37 micro-municipalities dissolved. Georgia still has 218 cities and towns with less than 1,000 residents. The smallest is the Town of Talking Rock with 49 residents.

### 7c. Structural Reform (Optimal)

What ever happened to Spring Garden, Northern Liberties, Kensington, Southwark, and Moyamensing? In 1850 these Pennsylvania communities were the ninth, eleventh, twelfth, twentieth, and twenty-eighth most populous cities in America. Four years later the General Assembly merged them with the larger city of Philadelphia and about 15 townships within Philadelphia County to form the boundaries of the 135-square mile city/county of Philadelphia as we know it today. For one hundred years thereafter, Philadelphia was a fabulously successful city, becoming the greatest manufacturing center in the United States and a national focal point of outstanding colleges and universities, museums, symphony orchestras, and other cultural institutions.

The city of Philadelphia only began to decline in the past half century, assailed by the twin blows of uncontrolled suburbanization and de-industrialization. Despite the heroic efforts of Mayor Ed Rendell to rationalize city government and the undeniable success of Centre City revitalization, Philadelphia continued to slide further past the Point of (*almost*) No Return. During the 1990s, the city lost another five percent of its population. The disproportion between the city's minority population and its suburbs' minority population increased. City per capita income slid slowly down from 64 percent to 60 percent of suburban per capita income.

As always, the city of Philadelphia must be treated as a special case; within Pennsylvania, Philadelphia is *sui generis*. However, the General Assembly could follow its historical precedent and create unified, regional municipalities with continuing annexation powers – in effect, “elastic cities.” I would suggest that the standard would be to merge all governments within the Census Bureau's designated urbanized areas.

This sounds like a radical proposal only within Pennsylvania's political and institutional context. In “county states,” there are many unified central cities of the approximate geographic and population size of Pennsylvania's urbanized areas.

Table 7.1 shows the comparisons between Pennsylvania's urbanized areas and peer “elastic cities.” These urbanized areas are the “real” cities of Pennsylvania. Outside the realm of their fragmented local governance, they function as unified labor markets, unified housing markets, and unified consumer markets. Their residents get their news from the same metropolitan daily newspapers and they watch the same local television news broadcasts. A family may live in one municipality, but send their children to a consolidated school district that serves several municipalities. Husband and wife may travel to two different municipalities to their jobs, do major

shopping at the regional mall in a third, and travel to the central city for major sports and cultural events. In reality, most residents cross many municipal boundaries daily as they live within Pennsylvania's real cities.

In constructing Table 7.1, generally, for Pennsylvania's larger urbanized areas (roughly 200,000 or more residents) I have identified peers as being within plus or minus one-third of their populations and within plus or minus one-half of their geographic areas. (Because Pennsylvania's urbanization patterns are so low-density and sprawl out so much, the range of geographic size is necessarily larger.) For Pennsylvania's smaller urbanized areas (less than 100,000 residents), there are so many potential peers that I have lowered the range to plus or minus ten percent for population and area just to keep the table's length within reasonable bounds and to prevent the ranges from overlapping for different Pennsylvania areas.

**Table 7.1  
Pennsylvania's urbanized areas and their unified peer communities in 2000**

<b>PA urbanized area and peer cities</b>	<b>area in sq. mi.</b>	<b>population in 2000</b>
<b>Philadelphia (PA portion only)</b>	<b>809</b>	<b>3,277,336</b>
Los Angeles CA	469	3,694,820
<b>Pittsburgh PA</b>	<b>852</b>	<b>1,753,136</b>
Houston TX	579	1,953,631
Phoenix AZ	475	1,321,045
Dallas TX	343	1,188,580
San Diego CA	324	1,223,400
<b>Allentown-Bethlehem PA</b>	<b>290</b>	<b>576,408</b>
Louisville-Jefferson KY	385	693,604
Jacksonville-Duval FL	348*	735,617
Oklahoma City OK	352*	506,132
Nashville-Davidson TN	323	545,524
Indianapolis-Marion IN	362	781,870
Memphis TN	280	650,100
Austin TX	252	656,562
El Paso TX	249	563,662
Charlotte NC	242	540,828
Columbus OH	210	711,470
Denver CO	153	554,636
Portland OR	134	529,111
<b>Harrisburg Pa</b>	<b>208</b>	<b>362,782</b>
<b>Lancaster PA</b>	<b>199</b>	<b>323,554</b>
<b>Scranton-Wilkes Barre PA</b>	<b>159</b>	<b>385,237</b>
Kansas City, MO	225*	441,545
Virginia Beach, VA	248	425,257
Tucson AZ	195	486,699
Colorado Springs CO	186	360,890
Tulsa OK	182	393,049
New Orleans LA	183	484,674
Albuquerque NM	181	448,607
Wichita KS	136	344,284
Atlanta GA	132	416,474

- Note: "\*" indicates just urbanized portion of the municipal area only
- Note: Brookings study target communities are boldfaced.

**Table 7.1 (continued)**  
**Pennsylvania's urbanized areas and their unified peer communities in 2000**

<b>PA urbanized area and peer cities</b>	<b>area in sq. mi.</b>	<b>population in 2000</b>
<b>York PA</b>	<b>119</b>	<b>192,903</b>
<b>Reading PA</b>	<b>101</b>	<b>240,264</b>
<b>Erie</b>	<b>79</b>	<b>194,804</b>
Mobile AL	118	198,915
Little Rock AR	116	183,133
Lubbock TX	115	199,564
Raleigh NC	115	276,093
Bakersfield CA	113	247,057
Tampa FL	112	303,447
Salt Lake City UT	109	151,060
Winston Salem NC	109	185,776
Jackson MS	105	184,256
Greensboro NC	105	223,891
Shreveport LA	103	200,145
Tallahassee FL	96	150,624
Durham NC	95	187,035
Orlando FL	94	185,951
Knoxville TN	93	173,890
Amarillo TX	90	173,627
Fort Wayne IN	79	205,727
Laredo TX	79	176,576
Riverside CA	78	255,285
Baton Rouge LA	77	227,818
Des Moines IA	76	198,682
Lincoln NE	75	225,581
Springfield MO	73	151,580
Reno NV	69	180,480
Madison WI	69	208,054
Newport News VA	68	180,150
Irving TX	67	191,615
Boise City ID	64	185,787
<b>Pottstown PA</b>	<b>55</b>	<b>73,597</b>
North Charleston SC	59	79,641
Redding CA	58	80,865
Gulfport MS	57	71,127
Tuscaloosa AL	56	77,906
Albany GA	56	76,939
West Palm Beach FL	55	82,103
Longview TX	55	73,344
Las Cruces NM	52	74,267
Fort Smith AR	50	80,268
<b>Johnstown PA</b>	<b>43</b>	<b>76,113</b>
<b>Altoona PA</b>	<b>38</b>	<b>82,520</b>
Lakeland FL	46	78,452
Jacksonville NC	45	66,715
St Joseph MO	44	73,990
Bryan TX	43	65,660
Decatur IL	42	81,860
Wilmington NC	41	75,838
Asheville NC	41	68,889
College Station TX	40	67,890
Lake Charles LA	40	71,757
Rochester MN	40	85,806
Murfreesboro TN	39	68,816

**Table 7.1 (continued)**  
**Pennsylvania's urbanized areas and their unified peer communities in 2000**

PA urbanized area and peer cities	area in sq. mi.	population in 2000
<b>Monessen PA</b>	<b>37</b>	<b>56,508</b>
Bossier City LA	41	56,461
Anderson IN	40	59,734
Johnson City TN	39	55,469
Council Bluffs IA	37	58,268
Santa Fe NM	37	62,203
Rocky Mount NC	36	55,893
Harlingen TX	34	57,564
<b>Hazelton PA</b>	<b>29</b>	<b>51,746</b>
<b>Williamsport PA</b>	<b>27</b>	<b>58,693</b>
Charleston WV	32	53,421
Terre Haute IN	31	59,614
Eau Claire WI	30	61,704
St Cloud MN	30	59,107
Monroe LA	29	53,107
Chico CA	28	59,954
Janesville WI	28	59,498
Bismarck ND	27	55,532
Dubuque IA	27	57,686
Temecula CA	26	57,716
Greenville SC	26	56,002
Hemet CA	26	58,812
Greenville NC	26	60,476
Iowa City IA	24	62,220
<b>State College PA</b>	<b>21</b>	<b>71,301</b>
Livermore CA	24	73,345
Longmont CO	22	71,093
Medford OR	22	63,154
Waukesha WI	22	64,825
Appleton WI	21	70,087
Pompano Beach FL	21	78,191
Yakima WA	20	71,845
Merced CA	20	63,893
Bloomington IN	20	69,291
Santa Maria CA	19	77,423

How do these elastic *cities* compare socially and economically with Pennsylvania's *urbanized areas* (that is, both the central city and all its suburbs)? Very, very well. Table 7.2 compares the 54 elastic central cities that match up with Pennsylvania's largest urbanized areas (Philadelphia, Pittsburgh, Allentown-Bethlehem, Harrisburg, Lancaster, Scranton-Wilkes Barre, York, and Erie) which are the subject of the Brookings survey.

**Table 7.2**  
**Comparing Pennsylvania’s major urbanized areas with 54 peer elastic cities in 2000**

	<b>black housing segregation index</b>	<b>urban area per capita income</b>	<b>city per capita income</b>	<b>city- suburb income percentage</b>
8 Pennsylvania urbanized areas	64	\$21,054	\$15,739	71%
54 elastic, peer central cities	51	\$20,895	\$20,180	98%

The first column shows that African Americans are much less segregated within the boundaries of these “Big Box” elastic cities themselves (an average segregation index of 51) than they are within Pennsylvania’s “little boxes” metro areas (an index of 64) which are comparable in area and population to these elastic central cities. In fact, 37 of the 54 cities are less segregated than the Pennsylvania regions with which they are compared. With a segregation index of 53, Allentown-Bethlehem provides the only tough competition, being less segregated than eight of the twelve cities with which it is compared.

The second column shows that the eight Pennsylvania urbanized areas averaged a per capita income of \$21,054 – slightly more than the \$20,895 for the urbanized areas in which the 54 elastic cities are located. However, a number of the elastic cities/urbanized areas are located in very poor sections of the country, such as along the Mexican border (El Paso, Laredo), in the old Cotton Belt states of the Deep South (New Orleans, Baton Rouge, Shreveport, Jackson, and Mobile), and regions of West Texas (Amarillo and Lubbock). While Erie is an economically depressed urbanized area (a per capita income of only \$18,374), Erie hardly compares with the El Paso (\$13,204) or Laredo (\$11,076) areas. In fact, dropping El Paso and Laredo from the list raises the average per capita income of the remaining 52 peer urbanized areas (\$21,232) above their Pennsylvania counterparts.

Comparing entire urbanized areas, however, is not the point of this discussion. Rather, the more pointed comparison is between Pennsylvania’s “little boxes” urbanized regions and their peer “Big Box” central cities.

Philadelphia and its suburbs (\$23,801) are economically better off than the city of Los Angeles (\$20,671) – simultaneously burdened and invigorated by unprecedented Hispanic and Asian immigration. Dallas (\$22,183) and San Diego (\$23,609) *as elastic central cities* are wealthier than Pittsburgh *and its suburbs* (\$21,821). Indianapolis-Marion (\$21,789), Nashville-Davidson (\$22,018), Louisville-Jefferson (\$22,352), Portland (\$22,643), Denver (\$24,101), Austin (\$24,163),

and Charlotte (\$26,823) as elastic central cities are wealthier than Allentown-Bethlehem and their suburbs (\$21,130).

Atlanta (\$25,772) is wealthier than Harrisburg and its suburbs (\$23,478). Atlanta, Colorado Springs (\$22,496), and Virginia Beach (\$22,365) are wealthier than Lancaster and its suburbs (\$21,175). All peer elastic central cities except New Orleans (\$17,258) and Tucson (\$16,322) are wealthier than Scranton-Wilkes Barre and their suburbs (\$18,014).

Comparing central cities tells a more striking story. Pennsylvania's central cities (averaging \$15,739) aren't on the same page with the elastic central cities (averaging \$20,180). Pennsylvania's cities average only 71 percent of suburban income levels (a vast gulf) while, on the average, the elastic central cities are at near parity (98 percent). Twenty-four of the 54 elastic cities have incomes *higher* than suburban levels. And with the sole exceptions of El Paso and Laredo, the 54 elastic central cities have incomes higher than the Pennsylvania central cities to which they are compared.

Finally, almost all of the elastic cities' regional economies have been growing much faster than Pennsylvania's regional economies. The causes of economic growth and decline are many and complex. As I said earlier, I am not about to argue, for example, that just because Allegheny County is divided up into 130 municipalities, Pittsburgh lost its steel industry. I can argue, however, that such fragmentation greatly complicated the Pittsburgh region's capacity to re-tool its regional economy after such a blow.

Controlling for sectional differences (e.g. Sun Belt vs. Frost Belt, etc.), Miller found a strong, statistical correlation between greater governmental unity and stronger economic growth. As a practical matter, what could account for that?

One factor would certainly be a Big Box government's command over a much larger tax base. The city of Charlotte and the Allentown-Bethlehem urbanized area are comparable in area and population. Comparing property valuation among states is very unreliable since formal assessment methodology and informal practices vary so widely. However, in 2002, the market value of property in Charlotte was about \$54 billion; Charlotte's general obligation bonds carried a blue-chip, Aaa credit rating (one of only 21 municipalities in the country with such a rating – ten of which are peer cities listed on the first two pages of Table 7.1). Charlotte executes almost \$500 million a year in capital improvement projects. Charlotte can finance by itself what it needs for itself and *for its region*.

Compare that situation with the Lehigh Valley. Adjusting assessed valuation to market value,<sup>25</sup> Lehigh and Northampton counties had a combined property tax base of about \$30 billion in 2002. However, the largest of the “little boxes” are the city of Allentown, the market value of whose property was about \$3.5 billion, and the city of Bethlehem, about \$2.7 billion. Allentown and Bethlehem go to the bond market with only A3 and Baa2 bond ratings – six and eight ratings steps below Charlotte, respectively! The only local governments that could hope to match resources with the city of Charlotte would be the two county governments themselves, acting jointly and as agents for 62 constituent municipalities. Their broader, deeper tax bases are reflected in their quite respectable bond ratings: Lehigh County (Aa3) and Northampton County (Aa2).

Indeed, city-county consolidation was a key step in achieving the elasticity of several of the most prominent peer cities in Table 7.1. The Indiana legislature consolidated Indianapolis and Marion County in 1970 solely by state statute without a popular referendum. Legislatures crafted the consolidation charters for Nashville-Davidson County (1962), Jacksonville-Duval County (1968), and, most recently, Louisville-Jefferson County (2003) before submitting them to local voters. Other combined city-counties in Table 7.1 are Denver (1897), Virginia Beach (1962), New Orleans (1805), and Baton Rouge (1948).

Charlotte and Mecklenburg County might as well be formally consolidated. The city houses 78 percent of the county’s population and has negotiated treaties with the county’s other five municipalities so that ultimately all of Mecklenburg County will have been annexed out. City and county government occupy a joint government center, provide many unified services, have a single planning department and jointly appointed planning commission, and even have a common web page ([www.charmeck.nc.us](http://www.charmeck.nc.us)). “Acting like one” at the metropolitan core!

#### **7d. Structural Reform – Summing Up**

Citizens are very conservative regarding changes in the form of local government. However critical some may be of their local government, many derive comfort from the familiar – the “devil you know” – rather than embrace major governance reforms – the “devil you don’t know.” This is particularly true in Pennsylvania where 77.7 percent of all residents in 2000 had been born in Pennsylvania – the second highest proportion of “natives” in the country.<sup>26</sup>

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<sup>25</sup> The Pennsylvania State Tax Equalization Board found the Lehigh County’s ratio of assessed value to market value was 47.2 percent and Northampton County’s was 47.4 percent in 2000.

<sup>26</sup> Louisiana (another economically stagnant state) had the highest proportion of natives (79.4 percent). By contrast, only 34.7 percent of Arizona’s residents were native Arizonans; 32.7 percent of Florida’s were native Floridians; and 21.3 percent of Nevada’s were native Nevadans.

Moreover, my own experiences in the New Mexico House of Representatives suggest that legislatures have even a higher proportion of native sons and daughters than the state they represent. (This is generally true of elected officials.) Few came from elsewhere. Most went to college in-state. Most have built their careers locally. Thus, most Pennsylvanians and the officials they elect have little experience of *elsewhere*.

And Pennsylvania is surrounded on three sides by “little boxes” neighbors like themselves (Ohio, New York, and New Jersey). Only Maryland, a model of Big Box government, is different – but for some reason Pennsylvanians pay little attention to how the public business is organized by their neighbor just south of the Mason-Dixon Line.

I hope that the preceding discussion drives home the point that governance counts. As Louis J. Appel, Jr., long-time York County business and civic leader, explained, “How different our society is from the bucolic one our ancestors knew. How vastly different are the demands on our local governments. And yet we are hamstrung in dealing with the realities of today’s mobile society by a governmental structure designed to accommodate the needs of a horse and buggy era.”<sup>27</sup>

But what if (as is likely) the Governor and General Assembly won’t create unified regional municipalities (as they did for Philadelphia in 1854) or inject some elasticity into the geopolitical map or even balk at letting local voters euthanize irreparably crippled micro-governments? Can progress still be made within the existing “little boxes” framework?

## **Part IIB: Functional Reforms**

### **8. Background**

I have spoken and consulted in over 100 communities in three dozen states. Usually, at some point, someone in an audience will state that “well, what you say is all very good but you must understand that we have a very strong commitment to ‘home rule’ in this state.” That has certainly been said to me on many occasions in Pennsylvania.

*Everybody* likes the notion of ‘home rule’ in our American democracy. Every state legislator I’ve ever discussed the issue with will say that they’re “all for ‘home rule’” ... except whenever they aren’t. Whenever legislators see a problem they want to correct or have a pet idea they want to implement, they pass a new state law telling county and municipal governments what to do. I’m

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<sup>27</sup> Remarks upon receiving the 2002 Business Achievement Award from the York County Chamber of Commerce.

sure that most state legislators (in candid moments) and *any* municipal official can provide a long list of such state mandates to local governments.

In accordance with basic concepts of the American legal system that were widely adopted during the 19<sup>th</sup> century, the legal authority of local governments derives completely from state government. As stated by one 19<sup>th</sup> century constitutional authority:

“Public corporations are such as are created by the government [that is, by state government] for political purposes, as counties, cities, towns, and villages: they are invested with subordinate legislative powers to be exercised for local purposes for the public good, and such powers are subject to the control of the legislature of the state.<sup>28</sup>”

As constitutional scholar Gerald Frug argues:

“Cities have only those powers delegated to them by state governments, and traditionally these powers have been rigorously limited by judicial interpretation. Even if cities act pursuant to an unquestionable delegation of power by the state, their actions remain subject to state control. Any city decision can be reversed by a contrary decision by the state, a process the legal system calls ‘preemption.’ Moreover, state power is not limited simply to the ability to determine the scope of city decision-making authority or to second guess the exercise of that authority whenever it seems appropriate to do so. States have absolute power over cities, and the extent of that power has been extravagantly emphasized by the Supreme Court of the United States:

“The State ... at its pleasure may modify or withdraw all [city] powers, may take without compensation [city] property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the State is supreme, and its legislative body, conforming

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<sup>28</sup> Gerald E. Frug. *City Making: Building Communities without Walls*. Princeton University Press: Princeton, NJ (1999), p. 42.

its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States.”

“In an attempt to limit this subservience to the state, most state constitutions have been amended to grant cities the power to exercise “home rule.” But cities are free of state control under home rule only on matters purely local in nature. And, nowadays, little if anything is sufficiently local to fall within such a definition of autonomy. As a result, cities are generally treated by American law as ‘creatures of the state.’”<sup>29</sup>

I have read nothing in its state constitution that would make Pennsylvania any exception to this description of state-local government relationships. If the Governor and General Assembly won’t change the system of “little boxes” governance, then they must change the “rules of the game” the state sets for how local governments conduct themselves in key functions that transcend municipal boundaries.

The issue isn’t less democracy vs. more democracy. “Big Box” governments are no less accountable to local voters than “little boxes” governments; indeed, “Big Boxes” are typically under greater public scrutiny from the local press and broadcast media and citizen groups than are the myriad of “little boxes.”

The issue is what functions and responsibilities are best carried out at different levels of government. After all, no one expects the Borough of New Freedom in York County to be responsible for national defense or social security or prosecution and incarceration of felons.

To address seriously the adverse trends analyzed above, the General Assembly must decide that certain responsibilities cannot continue to be assigned to the myriad of municipal governments.

In general, the General Assembly should strengthen the role of county governments to carry out multi-municipal responsibilities. County government is not some “higher level” of government. County government is simply the only “Big Box” *local* government available in Pennsylvania. It is that *local* government that can best do for the citizens collectively what the myriad of municipalities cannot accomplish separately.

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<sup>29</sup> Ibid., p. 17.

## 8a. Functional Reform (relatively easy)

The General Assembly has already taken the first steps down the path of potential re-alignment of municipal functions. The Constitution (Article IX, Section 5: Intergovernmental Cooperation) provides that “[a] municipality by act of its governing body may, or *upon being required by initiative and referendum in the area affected shall*, cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, one or more other governmental unit including other municipalities or districts, the Federal government, any other state or its governmental units, or any newly created governmental unit [emphasis added].”

Furthermore, Article IX, Section 14 says "Municipality means a *county*, city, borough, incorporated town, township or any similar general purpose unit of government which shall hereafter be created by the General Assembly [emphasis added].”

Thus, county government can do anything that city, borough, and township governments can do. The General Assembly has implemented the constitutional provision through its Intergovernmental Cooperation Act.

However, what the General Assembly has not done is to turn the Intergovernmental Cooperation Act into an operational tool that can really be triggered by citizen action as envisioned in Section 5 quoted above. The legislature should enact a new state law would empower a county commission, by its own initiative or in response to citizen petition, to designate sub-county, multi-municipal “communities of common interest.” Within a “community of common interest,” the county commission would develop a “Compact” that would be a legally binding contract between county government and all the participating municipalities for a specified period (say, 20 or 25 years). It would transfer certain functions and responsibilities from city, borough, or township to county government as the Compact's operational agent.

After a lengthy planning process involving municipal officials, interest groups, and the general public, the county commission would call for a public referendum on the Compact. *All voters within the designated area would cast their votes as a single box; no voters in any single jurisdiction would have individual veto power to remain outside the Compact.* If the Compact were approved by a majority of voters, all jurisdictions within the designated “community of common interest” would be mandatory signatories. If voted down, the plan would die for all.

What responsibilities would the Compact cover? County government would not supplant municipal governments; county government would merely act as agent for those issues that clearly

transcend municipal boundaries and where traditional inter-municipal arrangements (like mutual aid agreements for police and fire protection) cannot get the job done. My own list would certainly include land use and transportation planning (with requirements for conformance of municipal zoning ordinances); major public infrastructure investments; and local tax abatement and other development subsidies.

This proposal is the counterpart to the approach recommended in sections 7a and 7b for structural reform. In other words, let local voters decide but structure the process so that the concept of a broader, common constituency can be created beyond the boundaries of each “little box.” As James Madison wrote so perceptively in Federal Paper No. 10, the way to overcome the effects of excessive fragmentation (“faction,” in his words) is to broaden the constituency affected.

### **8b. Functional Reform (relatively hard)**

Based on results, and compounded by its intense local government fragmentation, Pennsylvania must have one of the most ineffective state land use laws. Now-US Congressman Jim Gerlach (R-Berks, Chester, and Montgomery), State Representative David J. Steil (R-Bucks), and a host of environmental organizations, spearheaded by 10,000 Friends of Pennsylvania, struggled for several years to reform the Municipalities Planning Code (MPC). The results (Acts 67 and 68) were dubbed the “Growing Smarter” amendments to the MPC. They were approved in June 2000 by strong majorities in both houses (a clear indication of ultimately how little was fundamentally changed).

As 10,000 Friends of Pennsylvania summarizes the changes:<sup>30</sup>

“Pennsylvania’s approach to land use is enabling and permissive rather than mandatory and continues to be so under the newly amended MPC. Unlike Oregon, Florida, Maryland, and other states where planning is mandatory and implementing actions are subject to review for consistency, planning and zoning are optional but, if undertaken, must comply with the MPC. Counties are required to do comprehensive plans, but these are advisory only and have been much ignored. *Consistency between plans and ordinances has not been required – in fact, the MPC specifically says (and still says) “no*

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<sup>30</sup> All quotes are from Joanne R. Denworth, “Growing Smarter Legislation – New Options for Multi-Municipal Planning and Implementation” which is available on the 10,000 Friends of Pennsylvania website [www.10000friends.org](http://www.10000friends.org). Readers are encouraged to visit this website for a more detailed and excellent discussion of the planning process in Pennsylvania and the recent Municipal Planning Code amendments.

*action of a governing body shall be invalid or subject to appeal on the ground that it is inconsistent with a comprehensive plan [emphasis added].”*

This remarkable disclaimer (Section 303(c)) dates back to shortly after enactment of the MPC in 1968. As described by 10,000 Friends,

“In Pennsylvania, early case law prior to the MPC started down the road of requiring consistency between plans and ordinances ..., but retreated from that position in the face of numerous challenges by landowners on the ground that ordinances were not in accordance with comprehensive plans. The changing case law led to pressure to codify the legal insignificance of plans in Section 303(c). Both the Pennsylvania Association of Township Supervisors and the Pennsylvania Builders Association are opposed to any change in that section [in the “Growing Smarter” process]. The townships don’t want plans to be used against them by developers or citizens, even though giving plans some legal effect would enhance the power of municipalities to control their futures.

“Developers and resource industries don’t want plans to have any legal effect because they want to be able to change zoning requirements in response to their proposed uses for property they own or acquire. They want predictability and they want to be able to rely on whatever the zoning regulations are as of right without any possible challenge based on inconsistency with a plan. Interestingly, when their own interests are at stake, the builders insist on consistency, as for instance in the transportation infrastructure provisions of Article V, where ordinances and actions “shall be” consistent with transportation plans.

“Plans are not laws; they are advisory documents that provide a rationale for the zoning ordinances and other regulation. However, if there is no process for determining whether action is consistent with plans, amending plans if necessary to fit a community’s changing needs and desires, and keeping plans and ordinances tied together, plans become meaningless and ignored – which has been the case in Pennsylvania. Not only is the civic and governmental effort that went into planning largely wasted, but there is no up-to-date, justifying rationale for ordinances. Zoning becomes a somewhat arbitrary exercise in carving up the landscape – often in response to the pressure of individual landowners without consideration of public and other private interests.”

In short, the prevailing ethos in Pennsylvania has been “planning is fine ... as long as it doesn’t count for anything.”

Nonetheless, proponents of the “Growing Smarter” amendments believe that the MPC’s new Article XI, entitled “Intergovernmental Cooperative Planning and Implementation Agreements,”

“effects a true advance over prior law by authorizing multi-municipal planning and implementation that can be legally effective if municipalities seize the opportunities these provisions offer. They enable municipalities (including counties) to develop and implement a plan for an entire county or any area of contiguous municipalities within a county or counties using intergovernmental cooperative agreements under the Intergovernmental Cooperative Law.

“The most significant features of the new provisions:

- Enable cooperating municipalities to designate growth areas in and around cities, boroughs, and villages where public infrastructure will be provided and rural resource areas where rural uses will be preferred and infrastructure will not be provided with public funds;
- Give the cooperating municipalities the ability to distribute all uses over reasonable geographic areas of the plan and to carry out that plan using their own individually adopted ordinances without joint zoning so long as those ordinances are generally consistent with the adopted multi-municipal plan;
- Provide incentives including:
  - priority consideration in state funding programs of all kinds;
  - required consideration of the plan and implementing ordinances by state agencies in making permitting and funding decisions;
  - legal protection in curative amendments suits if all uses are provided for within the area of the plan;
  - the availability of special tools that can be used across municipal boundaries – transfer of development rights, tax base and revenue sharing, and specific plans for commercial and industrial development.”

How will this “enabling and permissive” process potentially affect the pattern of declining central cities and older suburbs discussed in this paper? It is insightful to analyze what municipalities actually take advantage of the opportunity for voluntary joint land use planning. An on-going survey by 10,000 Friends found a total of 88 joint, multi-municipal plans adopted or in development as of April 2003. Table 8.b(1) summarizes the demographic and economic characteristics of the multi-municipal alliances that have been formed in six of the eight metropolitan areas targeted by the Brookings study. (The survey lists no joint land use planning underway in the Scranton-Wilkes Barre and Harrisburg-Lebanon-Carlisle regions.) The central city for each metro area is listed, followed by the joint planning consortia in that region.

Several characteristics of the Pennsylvania’s voluntary system of multi-municipal planning become readily apparent.

- *No suburban municipalities are planning jointly with their central city in these six major metropolitan areas.* In fact, out of Pennsylvania’s 15 metropolitan areas, the only place where central city-suburban joint land use planning is being implemented is (not surprisingly) State College, where State College borough and five adjacent townships have adopted a regional comprehensive plan.
- Based on my (sometimes faulty) knowledge of the political geography of these regions, *there is no joint planning involving inner-ring boroughs and more “built-out” townships..*
- *Joint planning seems to be the exclusive practice of outer-ring and rural townships and the boroughs they enclose.*
- With few exceptions – and in sharp contrast to their central cities – *the residents of joint planning municipalities are almost exclusively Anglos.* Of the 36 joint planning areas, 32 are 92 percent to 99 percent Anglo. The only joint planning regions with significant black and Hispanic populations are centered on Collegeville borough (where well-to-do blacks are almost one-third of the population), on Kennett Square borough (40 percent minority), on Pottstown borough (22 percent minority), and on Brownsville borough (13 percent black).
- With the exception of Pittsburgh’s suburbs (and some of Erie’s suburbs), *all joint planning communities have much higher average incomes and much lower poverty rates than their central cities.*
- *The Pottstown and Kennett areas are the only joint planning regions where there are any measurable income differences among the participating municipalities.*

**Table 8.b(1)  
Joint Land Use Planning in Target Metro Areas**

<b>Area</b>	<b>pct. Anglo</b>	<b>pct minority</b>	<b>pct poor</b>	<b>per capita income</b>
<b>Philadelphia (central city)</b>	<b>42%</b>	<b>53%</b>	<b>22%</b>	<b>\$16,509</b>
Newtown area (3)	94%	2%	2%	\$40,759
Milford area (3)	97%	2%	3%	\$23,655
Quakertown area (3)	96%	3%	5%	\$20,001
Kennett area (5)	83%	15%	4%	\$41,057
Indian Valley area (6)	93%	4%	3%	\$25,900
Upper Perkiomen area (6)	97%	2%	4%	\$22,418
Pottstown area (7)	88%	11%	7%	\$22,245
Collegeville area (2)	70%	27%	1%	\$25,422
Frederick area (4)	94%	4%	3%	\$25,238
<b>Pittsburgh (central city)</b>	<b>67%</b>	<b>29%</b>	<b>19%</b>	<b>\$18,816</b>
Crafton area (3)	95%	3%	6%	\$25,798
NE Upper Beaver Valley area (6)	94%	5%	10%	\$17,104
Brownsville area (2)	87%	12%	30%	\$14,130
Masontown-German area (2)	92%	7%	21%	\$15,634
Dunbar area (2)	98%	2%	13%	\$14,957
Roscoe-Stockdale area (6)	98%	1%	12%	\$17,578
Smith area (4)	97%	3%	9%	\$17,861
Mount Pleasant area (4)	98%	2%	7%	\$17,758
Centerville area (4)	98%	2%	13%	\$16,491
Finley area (2)	99%	0%	12%	\$14,758
Derry area (3)	93%	2%	10%	\$16,350
<b>Allentown (central city)</b>	<b>64%</b>	<b>34%</b>	<b>18%</b>	<b>\$16,282</b>
<b>Bethlehem (central city)</b>	<b>75%</b>	<b>23%</b>	<b>14%</b>	<b>\$18,987</b>
North Whitehall area (7)	97%	2%	5%	\$23,175
Macungie area (5)	95%	2%	2%	\$29,115
Nazareth area (8)	96%	2%	4%	\$23,746
Plainfield area (3)	98%	2%	6%	\$20,033
<b>Erie (central city)</b>	<b>79%</b>	<b>20%</b>	<b>18%</b>	<b>\$14,972</b>
Albion area (2)	98%	1%	11%	\$15,101
Corry area (2)	98%	1%	14%	\$15,401
McKean area (2)	98%	1%	5%	\$18,297
North East area (2)	97%	2%	8%	\$16,372
Union area (2)	98%	1%	17%	\$14,510
Girard area (3)	99%	1%	8%	\$16,612
<b>York (central city)</b>	<b>54%</b>	<b>45%</b>	<b>24%</b>	<b>\$13,439</b>
Shrewsbury area (5)	97%	2%	4%	\$22,949
Peach Bottom area (2)	96%	2%	5%	\$17,872
Carroll-Franklin area (5)	98%	1%	4%	\$23,314
<b>Lancaster (central city)</b>	<b>52%</b>	<b>47%</b>	<b>20%</b>	<b>\$13,955</b>
Conestoga Valley Region (3)	92%	5%	7%	\$21,908
Cocalico Region (4)	96%	2%	3%	\$20,744
Lititz-Warwick area (2)	96%	2%	4%	\$22,009

\* African American and Hispanics only

Since passage of the “Growing Smarter” amendments in June 2000, the Governor’s Center for Local Government Services has made \$8 million in grants to counties and municipalities under its Land Use Planning and Technical Assistance Program (LUPTAP). This is another source of information on the scope and nature of collaborative land use planning in Pennsylvania and is summarized in Table 8.b(2).

**Table 8.b(2)**  
**Allocation of LUPTAP Grants for FY 2000-01, FY 2001-02, and FY 2002-03**

category	grants	amount	pct
eight major metro areas			
county comprehensive plans	12	\$887,028	11%
municipal/multi-municipal comprehensive plans	77	\$2,120,808	27%
miscellaneous plans and studies	25	\$995,370	12%
other regions			
county comprehensive plans	29	\$1,932,145	24%
municipal/multi-municipal comprehensive plans	44	\$1,449,385	18%
miscellaneous plans and studies	9	\$590,369	7%
Total	196	\$7,975,105	

Again, the same pattern emerges as in 10,000 Friends survey of collaborative planning.

- Among the eight major metro areas, there are no instances of suburban municipalities planning jointly with their central cities nor, I believe, with inner-ring suburbs.
- Though, by definition, county comprehensive plans would cover central cities and inner-ring suburbs, in 10,000 Friends’ phrase, county plans “are advisory only and much ignored.”

In short, at best, collaborative land use planning in Pennsylvania is the province of suburbanizing townships interested primarily in “greenfields” development with an element of farmland and open space preservation added in some regions with a strong environmental concern. There is little counterbalancing commitment to “brownfields” redevelopment among those engaged in multi-municipal planning because the “brownfields” communities are not part of the multi-municipal consortia.

I certainly have not read many “comprehensive” land use plans in Pennsylvania, but where is there a plan that projects absorbing most new growth by even more compact development in already urbanized communities and where the task of the periphery is preserving farms, forests, and open spaces, such as is common, for example, in strong, anti-sprawl, land use planning states like Oregon or Washington?

From the perspective of the sharp racial and socioeconomic divides in Pennsylvania’s metropolitan areas, there is a more ominous implication of the current pattern of multi-municipal planning that excludes central cities and inner-suburbs. Multi-municipal plans still have an obligation to zone for all land uses, including affordable housing, with the area of the consortium. But “need” is established by the socioeconomic profile of the multi-municipal sub-region. As Table 8.1(a) demonstrated, almost without exception, these joint planning consortia are racially and economically exclusive communities. Among the multi-municipal consortia in South Central and Eastern Pennsylvania, the local poverty rate averages about 4 percent compared with a 20 percent poverty rate in their excluded central cities.<sup>31</sup> These multi-municipal consortia can plan for affordable units for a minimal number of very low-income households. Thus, at worst, current joint planning arrangements strengthen the ability of suburbanizing areas to keep out “the Other” – low and modest income households (often minorities) that are viewed as “undesirable.”

This stands in sharp contrast (at least, in theory) with the requirements of neighboring New Jersey’s Fair Housing Act of 1985, enacted in response to the New Jersey Supreme Court’s *Mt. Laurel* decisions. “Regional need” is defined to include central cities, inner- and outer-suburbs. Thus, suburban municipalities have a statutory obligation to provide “fair share” affordable housing based on a formula which factors in current concentrations of poor persons in central cities. Outer suburbs have much greater “fair share” obligations than would be the case if their “need” were established solely on the basis of the small number of low-income persons currently living within their municipal boundaries.<sup>32</sup>

Thus, state government needs to press for further reforms in land use planning on two levels.

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<sup>31</sup> In Western Pennsylvania (Pittsburgh and Erie), the poverty disproportion is less (12 percent among the suburban consortia as compared with 19 percent in the two central cities), but the racial imbalance is higher (3 percent vs. 24 percent). The racial imbalance is even higher between suburban consortia and central cities in South Central and Eastern Pennsylvania (4 percent vs. 40 percent).

<sup>32</sup> Many wealthy suburbs in New Jersey largely escape their “fair share” obligations by using the execrable Regional Cooperation Agreements to sell back up to half of their “fair share” allotment to poverty-impacted cities. At an average sell-back cost of \$20,000 per unit, many “receiving” city administrations and non-profit housing providers welcome RCA payments. The practical effect, however, has been to literally cement thousands of low-income children into poverty impacted city school districts where the proportion of low-income pupils averages twelve times the average of the “sending” suburban districts.

First, land use plans must become “real” by

- eliminating Section 303(c) and requiring that zoning actions and other regulatory and infrastructure decisions must conform to adopted land use plans; and
- requiring state agencies to conform their infrastructure grants for building roads and highways, water and sewer lines, and other facilities to local comprehensive plans. The “Growing Smarter” amendments only require state agencies to “consider” and they “may rely upon” multi-municipal plans in making funding and permitting decisions.

In fact, with regard to state-supported water and sewer facilities, the issue of consistency with local plans may have lost ground. As 10,000 Friends explains,

“What began as a strong provision in Senator Gerlach’s Senate bill that required water and sewer facilities expansions to be consistent with local comprehensive plans and ordinances was significantly weakened by the final passage of both bills.... The new amendments require only that municipal authorities and water companies notify municipalities of their intent to expand service and that nothing shall be interpreted to limit the right to expand service ‘as otherwise provided by law.’

“[Furthermore, the “Growing Smarter” amendments] invoke the protection of the Public Utility Commission [in that] ‘except as provide in section 619.2, nothing in this article shall be construed as limiting the authority of ... the PUC ...over the implementation, location, construction and maintenance of public utility facilities and the rendering of public utility services to the public.’”<sup>33</sup>

The second area of reform is the vital need to bridge the central city-inner suburb-outer suburb chasm. The argument for doing so is well put by 10,000 Friends (though I have deconstructed the all purpose term “municipalities” in the material quoted below).

“The new provisions offer cities and boroughs the opportunity to plan with neighboring [townships] for development in and around their [cities and boroughs], making use of and improving their existing infrastructure. Many of these [cities and boroughs] have been left out as new development moves out to suburban and exurban locations. Many are in relative economic decline with less affluent populations and shrinking tax

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<sup>33</sup> 10,000 Friends opines that “it appears from this provision that comprehensive plans and ordinances will be controlling when all the stars are in place and consistent with section 619.2 as described above.

bases; yet they have assets that, with appropriate public and private investment, could make them attractive to homebuyers and businesses.

“Cities and boroughs could be ideal locations for infill traditional neighborhood development (TND), newly authorized in Article VII-A. Such development could be located in or near a city or town, so as to take advantage of existing infrastructure. A transfer of development rights program in a planning area that combines rural and urban municipalities would enable farmers to sell development rights to developers for use in a city, borough or more suburban township within the plan, thereby relieving pressure on rural lands, and helping to sustain developed areas. The use of tax and revenue sharing, if desired, could mean that the burdens and benefits of commercial and industrial development are shared and contribute to the economic health of all the participating municipalities. The specific plan provisions would enable the participants to develop one set of applicable standards for an area or areas of the plan targeted for economic development.”

In theory, these are worthy goals. In practice, they are not being achieved. Central cities, in particular, are unwelcome partners. Whether by conscious policy or a sub-conscious lack of “municipal consanguinity,” suburbs typically want nothing to do with central cities.<sup>34</sup> In his 22 years on the York City Council, member Lee Smallwood can only recall two occasions that a suburban municipality approached the city of York on some collaborative venture.<sup>35</sup> Then-Mayor Ed Rendell told me once that, upon his taking office, suburban leaders assured him that, if the mayor put Philadelphia’s own house in order by curbing the power of city labor unions, balancing the budget, and restoring the city’s credit rating, they would be happy to help. “I did all that,” Mayor Rendell said, “and it didn’t make a dime’s worth of difference. The suburbs still won’t help the city.”

To bridge the gap, it seems to me that there are only two choices. The first is a new state law that, as proposed in section 8a, authorizes counties to designate “communities of common interest.” If county government cannot broker significant city-suburb collaboration through the governing bodies, the issue can be put to the citizens voting as a single box. If it can be mobilized,

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However, the actual effect of these sections and the relationship to PUC regulation needs to be understood and illuminated in some depth.”

<sup>34</sup> In turn, suburban officials often cite anecdotes of city “selfishness” or “arrogance.”

<sup>35</sup> Both instances involved also-declining North York borough, which inquired briefly about contracting for city police services, and, more recently, about jointly purchasing a streetsweeper. “Cities and suburbs only collaborate,” former York City official Eric Menzer states, “when it is impossible not to do so – when the financial and environmental costs of failure of collaborate are staggering.” Menzer cites the seven-member York Inter-Municipal Sewer Authority and the collaborative agreement between the York sewer authority and the adjacent Springettsbury sewer authority as examples.

the greater voting strength of the cities could be decisive. Increasingly, citizens of some inner-ring boroughs and townships should also begin making common cause with city voters.

The second choice is to adopt a new, no-nonsense state land use law that mandates such collaboration, as will be discussed briefly in the next section (and extensively in Appendix A).

### **8c. Functional Reform (Optimal)**

For each of the critical regional issues I have defined there exist established laws in other states that are both “state-of-the-art” but also have at least 25 years’ of practical experience behind them. These are

- to control urban sprawl and reverse urban disinvestment, the Oregon State Law Use Act and three model public institutions: the state Land Conservation and Development Commission, the state Land Use Board of Appeals, and, as a model planning body for complex metro areas, Portland Metro, the nation’s only directly-elected regional government;
- to reverse the growing trend towards more economically segregated housing markets and greater concentration of poverty, Montgomery County, Maryland’s Moderately-Priced Dwelling Unit (MPDU) law, the nation’s largest and most successful, mandatory, inclusionary zoning law; and
- to offset the fiscal disparities that arise among municipalities because of uneven development patterns, Minnesota’s Twin Cities Fiscal Disparities Plan.

All are discussed in detail in three appendices to this paper. They should be enacted by the General Assembly and signed by the Governor.

The belief, however, that the Pennsylvania Way is “enabling and permissive rather than mandatory” is mostly a notion of political convenience. The Governor and General Assembly have been very directive about what local governments must do and how they must do it on less politically controversial but significant issues.

A notable example would be the issue of storm drainage management. As explained by the Department of Environmental Protection,

“The Pennsylvania legislature enacted the Storm Water Management Act (No. 167) in 1978 to authorize a program of comprehensive watershed stormwater

management which retains local implementation and enforcement of stormwater ordinances similar to local responsibility of administration of subdivision and land development regulations. *Under the Act, the Department of Environmental Protection (DEP) provides grant money to counties to develop stormwater management plans for designated watersheds.* This planning effort results in the incorporation of sound engineering standards and criteria into local codes and ordinances to manage runoff from new development in a coordinated, watershed-wide approach.

“Counties develop stormwater plans for each of its watersheds within its boundary. The DEP develops grant agreements with counties to pay for 75 percent of the cost to prepare the plans. *Upon completion of a plan by a county and approval by the department, municipalities located in the watershed adopt ordinances consistent with the plan.* Developers are then required to follow the local drainage regulations that incorporate the standards of the watershed plan when preparing their land development plan....”<sup>36</sup>

As Act 167 demonstrates, when they have sufficient political will, the Governor and General Assembly can lay down new “rules of the game.”

## **9. Final Thoughts**

The proponents of reforming the Municipalities Planning Code fought long and heroically. They had to settle honorably for the more modest “Growing Smarter” amendments. Clearly, the amendments and LUPTAP grants have accelerated both county-wide planning and multi-municipal planning ... but on a very selective basis.

Some multi-municipal coalitions have formed among largely rural townships and country-crossroads boroughs; their goal is often to avoid development whatsoever and maintain their rural character. That is a valid public purpose and may have some slight long-term effect on re-directing private investment back towards more urbanized areas. Other multi-municipal coalitions, I suspect, have an unwritten goal to keep “undesirable” people out through as much exclusionary zoning as they can get away with.

What is clear, however, is that a weak state land use law that is based on an “enabling and permissive” philosophy, as filtered through Pennsylvania’s highly fragmented patchwork of 2,630

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<sup>36</sup> Unlike the sound and fury over amending the Municipal Planning Code, storm drainage management seemingly occupies a tranquil backwater of state government. The relevant DEP webpage, headlining “Thomas J. Ridge, Governor” was last modified on February 5, 1997.

local governments, will not diminish the demographic, economic, and fiscal burdens of the state's central cities and, increasingly, its inner-suburbs.

If Pennsylvania were New Jersey, another "little boxes" state, the Fair Share Housing Center (protagonists of the *Mt. Laurel* suits) would be in state court challenging the consequences of the Municipalities Planning Code. If Pennsylvania were Connecticut, yet another "little boxes" state, the legal team behind *Sheff v. O'Neill* would be challenging not just the state's system of educational finance but the underlying system of "little boxes" school districts that results in *de facto* racial and economic school segregation.<sup>37</sup> Or, like New Haven Mayor John Di Stefano, some mayor would be mounting a constitutional challenge to the "little boxes" governance system itself.

The reform alternatives outlined are all controversial proposals that will undoubtedly draw significant popular opposition. Article I, Section 2 of the Pennsylvania Constitution states that "all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper."

Undoubtedly, many past legislators and governors have concluded that the political perils to them were greater than were the benefits of championing forceful reforms. Yet just tinkering with a "horse and buggy era" governance structure and just fiddling with the current "rules of the game" will not re-energize a stagnating state nor revive slowly dying cities, boroughs, and inner townships. Pennsylvania's political leadership should rather act in the spirit of the ancient Athenian oath of office:

**"That thus, in all these ways, we will transmit this city not only not less, but greater, better and more beautiful than it was."**

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<sup>37</sup> About five years ago a coalition of urban and rural school districts did bring a significant legal challenge to the current system of school funding in Pennsylvania. Their challenge failed. More recently, Governor Ed Rendell has sought significant reforms in how the state aid flows to Pennsylvania's 516 local school districts. The Governor's plan (which passed the House on October 21, 2003 and is currently awaiting Senate action) would ultimately provide an additional \$450 billion in state aid to local school districts, raising the state share from 35 percent to 44 percent (34<sup>th</sup> lowest among all 50 states). Three-quarters of the new money would be targeted to students who are below proficiency. Increases in state school aid would be coupled with \$1 billion in state-funded property tax relief (raised through new gaming legislation). To qualify, a school district must impose a 0.1 percent income tax. By doing so, local school districts will be able to reduce their reliance on property taxes by 12.5 percent and the average Pennsylvania household would receive \$339 in property tax relief. With voter approval, school districts can reduce their reliance on property taxes even further by increasing income taxes.