*Pennsylvania League of Cities and Municipalities*

*presents*

# Core Communities in Crisis

# Task Force Report

2010

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The Pennsylvania League of Cities and Municipalities (PLCM) is a nonprofit, nonpartisan organization established in 1900 as an advocate for Pennsylvania's 3rd class cities. Today, the PLCM represents Pennsylvania's cities, townships, town, boroughs, and home rule communities that all share the League's municipal policy interests. Our Board of Directors oversees the administration of a wide array of municipal services including legislative advocacy (on both the state and federal levels), publications designed to educate and inform, education and training certification programs, membership research and inquiries, consulting-based programs, and group insurance trusts.

We are continually monitoring the needs of our members and are committed to providing all of our member municipalities with the cost-effective programs and services they require to meet the distinct needs of their communities.

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# Preface

**November 2010**

*The Pennsylvania League of Cities and Municipalities (PLCM), its Board of Directors and the members of its Core Communities in Crisis Task Force are pleased to provide you with this Report. The result of our Task Force, it represents the common voice of our membership. As core communities, our membership endorsed its recommendations as steps to solving the management, fiscal and operational crises facing many of Pennsylvania's urban communities.*

*All of the land in Pennsylvania is incorporated into one of our 2,562 individual municipalities. It is impossible to live in or visit our Commonwealth without being served in some way by the far reaching responsibilities of local government. As creatures of the State, local government relies on the Commonwealth to provide the tools necessary to effectively manage its day-to-day operations. This structure makes Pennsylvania unique; but at the same time, it hinders effective local governance.*

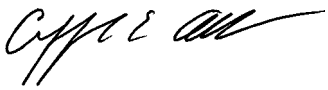
*As our agrarian heritage gave way to industry, our core communities were born. The demands for public safety and infrastructure brought forth a host of new expectations and responsibilities for our developing urban centers. To this day however, the management tools provided to local government have never caught up with the service demands.*

*Archaic codes, an inflexible local taxing structure, mandated personnel benefits, and explosive personnel and service costs are placing severe financial hardship on our core communities. In October 2010, the twentieth community sought help under the Commonwealth's Act 47 Distressed Municipality Program.*

*As a municipal association representing core communities, it was essential for PLCM and its membership to take the time to step back and examine how the local government structure in Pennsylvania is holding us back, in order to recommend changes that will more move us forward.*

*Our 29-member task force, its technical advisors and PLCM staff worked over the last four months of 2010 to study the overarching issues and recommend solutions. Our report is divided into three areas: Isolation of Core Communities Within Their Regions; Mandated Costs, Policies and Procedures; and Inability of Municipalities to Fund and Provide for the Health, Safety, and Welfare of Citizens. Each area will describe the issues we are currently facing and make recommendations for reform.*

*We hope you will find this Report to be a starting point for making effective change that will benefit not only our core communities but the entire Commonwealth.*



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# Core Communities in Crisis Task Force
# CALL TO ACTION

## CRISIS #1:
***Isolation of Core Communities Within Their Regions***

### Vision:

The Commonwealth and its municipalities are partners in forging regional communities.

### ✦ ✦ Action Items ✦ ✦

- The Legislature must establish a Boundary Review Commission as provided in Senate Bill 1357 of 2010 giving fiscally distressed municipalities a tool for reorganization.
- The Commonwealth must restore full funding to the Governor's Center for Local Government Services and the Shared Services Program, so these agencies have the proper funding and tools to promote regional cooperation and to help identify options for regional leadership across the state.

## CRISIS #2:
***Mandated Costs, Policies and Procedures***

### Vision:

The Commonwealth must foster flexibility and innovation in the day-to-day operations of municipal government, including ending unfunded mandates.

### ✦ ✦ Action Items ✦ ✦

**Act 111**

The Legislature must amend Act 111, The Police and Fireman Collective Bargaining Act, to:

- create a set of standards for awards, including a municipality's ability to pay for proposed awards;
- require that all awards are subject to full judicial review;
- expand the list of arbitrators to seven instead of three;
- require the cost of arbitration to be shared equally between the two parties;
- require that arbitration sessions be open to the public; and
- provide an avenue for municipal relief when the Auditor General identifies an illegal pension benefit.

**Act 205**

The Commonwealth must amend Act 205, The Municipal Pension Plan Funding Standard and Recovery Act, to:

- place caps on future pension benefits if a pension plan is not 90% funded;
- create a funding formula based on need; and
- require employee contributions to all local pension systems.

**Employee Benefits**

- The Commonwealth must combine the administrative process for Heart and Lung claims under the Workers' Compensation process.

**Funding**

- The Commonwealth must create a fiscally responsible statewide municipal pension system for all new hires.
- The Commonwealth must change its policy to level the playing field for all municipalities in the provision of state police services.

## CRISIS #3:

### *Inability of Municipalities to Fund and Provide for the Health, Safety and Welfare of Citizens*

## Vision:

The Commonwealth views local government as a partner providing sustainable tools and the local options necessary to foster flexibility and innovation for providing services in the 21st Century.

## ✦ ✦ Action Items ✦ ✦

- The Commonwealth must require counties to reassess on a regular basis and provide tools to assist in the effort, such as low interest loans and assessment technology.
- The Commonwealth must require tax-exempt properties to be assessed on the amount of payroll paid, rather than property value. This would provide a common valuation for tax-exempt properties without burdening the assessment system.
- The Commonwealth must authorize local governments to assess service fees on all property owners, including tax exempts, to pay for specific services, such as street cleaning, sidewalk cleaning, snow plowing, street lighting, etc.
- The Commonwealth must authorize a menu of local options supporting municipal services that fosters local control and decision-making, including:
  - A Local Services Tax levy of $144 per year and an annual indexing mechanism on the $144 for inflation. The specific uses of Local Service Tax revenue should remain unchanged.
  - A Payroll Tax instead of the Business Privilege Tax. The first year of the changeover being revenue neutral except in those municipalities currently prohibited from levying the Business Privilege Tax.
  - A county option 1% local sales tax. New revenue should be tied to the payment of a municipality's annual minimum municipal obligation first and core services second.
  - A 10% local tax on the retail sales of alcohol tied to public safety services related to consumption of alcohol.
  - A "sugared drink" tax tied to health, wellness and recreational programs locally.

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# Core Communities in Crisis Task Force
# REPORT

***CRISIS:*** a crucial or decisive point or situation. Pennsylvania's core communities are in crisis. Outdated policies and laws are preventing core communities from changing with the times, taking control of their own affairs, and thriving as an integral part of a larger region.

This crisis requires change. Change is never easy, but at times it is necessary for the common good and continued existence of our heritage. Core communities are demanding change – change in the way they are viewed by state government, change in the way they govern themselves, and change in the way they provide services to the Commonwealth's citizens. Without change, the crisis will spread to outlying, suburban and rural communities and the Commonwealth itself will be adversely affected.

Our new Governor and Legislature will face serious fiscal challenges at both the state and local level. The Pennsylvania League of Cities and Municipalities' Core Communities in Crisis Task Force offers this Report as a guide for the changes our core communities expect in the next decade. As a Commonwealth, we must choose change; we must value core communities and move them forward as they are an essential element of our past, present and future.

Our Task Force views the crisis from three aspects: *Isolation of Core Communities Within Their Regions*; *Mandated Costs, Policies and Procedures*; and *Inability of Municipalities to Fund and Provide for the Health, Safety and Welfare of Citizens*, all of which will be discussed in this Report.

### *What is a Core Community?*

Core communities are the backbone of our Commonwealth. They cut across all forms of local government in Pennsylvania – cities, townships and boroughs. They can be very large or relatively small. Core communities are full service, providing a range of constituent services including recreation, public safety, trash collection, code enforcement and community development. They have definite residential and commercial areas; are a region's location for employment, education, culture, social services, and history; and provide a sense of place for the region's residents.

## *Isolation of Core Communities Within Their Regions*

Core communities throughout the Commonwealth are often viewed as a drain on a region rather than as the cultural, economic, and governmental centers that they are. The policies of the mid to late 20th century and local government laws have influenced this attitude. For example, development of the highway system, social concerns, and

inconsistent land use policies have helped fuel the flight from core communities to suburbia. The multiplicity of local government codes; over reliance on the centuries-old, regressive and unfair property tax; an aging housing stock; and complete build-out of parcels have contributed to stagnant or slow growth in the tax base which is unable to keep pace with the increasing cost of service delivery, and have kept people from returning. These factors and many more have contributed to the core community becoming isolated in its own region, surrounded by wealthier municipalities with open space for new development and low property taxes.

In order to reverse the half-century trend away from the heart of our regions, a new focus and subsequent public policy shift is required to harness the strength of each region in our Commonwealth. Core communities must find new ways to work together in order to thrive in this century. To help the leaders of local government, business and nonprofit entities work better together, the importance of the regional community must be recognized, fostered and solidified at both the state and local level.

The current tool kit of regional options is limited as 2,562 municipalities fight for state funds, economic development opportunities and individual identity. Pennsylvania, proud of its history and tradition, must create meaningful incentives for regional cooperation and shared services while preserving the unique sense of place that exists in core communities. Each municipality should develop and adopt its own plan for regional cooperation with its neighbors. Technical assistance from the Commonwealth, including full funding of the Department of Community and Economic Development's Shared Services Program and the Governor's Center for Local Government Services, is essential for progress. Data and information on the cost of fragmentation and the difficulties of achieving economies of scale, as well as success stories, must be accumulated and analyzed by these agencies and shared throughout the Commonwealth.

The Commonwealth must also identify options for leadership in each region – whether core communities offer regional services, or perhaps county government or even councils of government, with enhanced funding powers. North Carolina, for example, requires every local government to be part of a regional council of government. A similar model could be helpful in encouraging a regional sense of community in Pennsylvania.

Local governments who are unable to continue to provide services, or who are in such financial distress that service delivery is severely limited, must be able to access a defined process for reorganization. The creation of a Boundary Review Commission which includes representation from local government is necessary to develop a clear pathway for municipalities and their citizens to chart their own course for a successful future.

A paradigm shift – from one where each community is looking out for itself, to one where a regional "barn-raising" mentality prevails – is necessary for an entire region to thrive. Local government leaders must recognize their important role in leading the region to prosperity. Under a defined process of the Local Government Conference, the local government associations should work together to develop a Center for Regional Excellence which would offer broad-based intergovernmental cooperation opportunities, training, and incentives for local leaders. Each local government association would come together around the formation and sustainability of the Center to promote best practices, and offer local officials and staff coordinated training opportunities

and recognition of course completion. The Center would serve as the primary collection point for local government data, information and best practices – sharing success stories, like the Five City Initiative from Easton to York and the CONNECT model in Allegheny County, with local government leaders and the general public.

Finally, the Commonwealth, as a key partner in developing new regional communities, must encourage efficiency and effectiveness of local government services by prioritizing state funding sources around regional efforts.

## *Mandated Costs, Policies and Procedures*

risis demands that core community leaders be innovative in the management of local government operations. But, as creatures of the State, local governments are limited in what they can and can not do. The State limits local powers and sets restrictive policies and procedures in the various municipal codes and in statutory and executively imposed mandates – most of which are unfunded. The Constitutional amendments approved in 1968 and Act 62 of 1972, provided an opportunity for local governments to move away from many of these restrictions by adopting a Home Rule Charter. After almost 40 years, however, only 71 municipalities and 6 counties have adopted such charters. The procedures required under Act 62 are too complex and time consuming, and voters lose interest in making changes.

In addition to having only the tools given to them by the State, Pennsylvania's local governments are constrained by the fact that many of these tools are outdated. Local elected officials are attempting to manage 21st Century government with policies and laws that for the most part have not changed in 40 years.

For example, each form of government is governed by its own municipal code. Some of the codes have not been comprehensively updated since the 1930's. Pursuant to the codes, all forms of local government are currently held to a bidding threshold for any purchases over $25,000; this figure was set in the 1990's and is woefully outdated given inflation and the increase in the cost of supplies in the last decade. This limitation costs both time and money because items must be bid that, by today's prices, should be allowed to be purchased outright. Repeated attempts to increase the threshold to a more reasonable amount and add an annual mechanism for inflation have failed in the Legislature.

Another example of inflexible and outdated policy preventing municipalities from using innovation is the advertising limitations placed on local government. Each code requires that municipalities advertise items, such as ordinances and requests for bids, in a newspaper of general circulation. While advertising is essential to keeping government open and available to its constituents, local governments should have a choice in the advertising medium. Advertising on a municipality's Website or a statewide Website is free to both the municipality and the citizenry and arguably reaches more people than newspapers in today's technologically savvy world.

Current policies also put core communities at a disadvantage to their outlying neighbors. One such policy has the Commonwealth providing state police service at no cost to municipalities that request the service. Rural townships and small boroughs typically take advantage of this service. This generosity places stress on the state police force from both a budgetary and staffing perspective. It also places a burden on the citizens in full-service communities who pay for this service through their state taxes, in addition to paying for their own local police service through the local property tax. This policy is especially vexing to full-service communities when communities using the state police levy little or no property tax and claim they cannot afford a per capita charge for the state police service because it will cause an increase in their property tax.

In addition to outdated codes and policies, local governments also work within the confines of many unfunded mandates. Two common examples are the collective bargaining and arbitration laws and the pension laws that govern uniformed employees. Collective bargaining and binding arbitration is required by Act 111, The Police and Fireman Collective Bargaining Act. Pension benefit levels are governed by municipal code or statute, depending on the size and type of government. Pension benefits are also the outcome of the collective bargaining process. Finally, pension funding limitations create a hardship for core communities. Personnel mandates, in particular, have a severe financial impact far into the future because once benefits are awarded, they are forever protected by the Pennsylvania Constitution.

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

In the area of pension benefit mandates, core communities are primarily burdened by the following: existing pension benefits are protected under the Constitution; municipalities have no avenue for relief from illegal benefits; employees are not required to contribute to their own pension systems; employees can take advantage of a loophole in the pension laws that generates higher pension payouts upon retirement; and there is no statewide plan available for new hires.

In terms of pension funding, mandates and inflexibility continue to expose municipalities to great expense. Municipalities with underfunded pension systems have no protection from the award of costly new benefits. Furthermore, the pension funding provided by the State under Act 205 of 1984 does not reflect pension funding needs, but is instead based on the number of employees who are active members of the pension plans.

One final policy mandate that needs to be reformed is the process of administering Heart and Lung claims for public safety employees. The original purpose of the Heart and Lung Act was to temporarily complement the two-thirds of salary benefit payable under the Workers' Compensation Act to injured employees. Together, the two laws were to provide employees with 100% of salary. Tax changes and conflicts between the two laws now result in payments of 125% of salary for indefinite periods of time. This policy results in additional payments, higher insurance premiums,

and extended claim administration. A merger of the Heart and Lung and Workers' Compensation claim administration processes would not affect employee benefits, but would save municipalities' time and money.

Reform of the mandated costs and outdated policies and procedures is absolutely necessary to the existence of core communities. The ability to govern locally, use innovation, and work within personnel laws that are fair to both parties, is essential to the survival of full-service communities.

## *Inability of Municipalities to Fund and Provide for the Health, Safety and Welfare of Citizens*

In terms of fiscal self-sufficiency, the laws that govern municipalities are inflexible, outdated, and do not reflect the way society lives.

Core communities are hamstrung by their inability to generate sufficient revenue to cover basic service provisions. Today's core communities have only two local taxes that they can rely on – the local earned income tax and the local real property tax. In most cases, both are levied at the highest rate allowed by law and together do not produce enough revenue to pay for basic public safety services. As costs continue to increase, these revenue sources become more and more inadequate.

While revenue limitations clearly impact our full-service communities from a fiscal standpoint, the implications of these limitations place a heavy burden on our residents and make our communities uncompetitive to prospective residents and businesses comparing the tax rates of municipalities.

PLCM contends that local elected leaders and the municipalities they serve are best able to decide which local taxes best fit their community. The demographics of this great Commonwealth vary from East to West, North to South. What works in one community, may not work in another. We must move away from static, inflexible, archaic taxing options to a dynamic system that fosters local control and decision making. Local elected leaders have the ability and incentive to make the right choices for their communities.

Local choice is only half the formula, however. Our Commonwealth must begin to offer more local taxing options on a regional base. We live regionally and services are provided to residents, workers and visitors alike. Therefore, we should also tax regionally to allow the region and its anchor communities to benefit as a whole. An example of a regional tax is the optional county sales tax that is shared among all municipalities in a county. Taxing regionally also helps to break down the isolation of core communities discussed earlier.

When recommending new taxing authority, PLCM is not oblivious to the political impacts and reality. To make this easier to accomplish, we propose that new revenue be tied to the funding of specific costs, such as personnel, core service provision or incentives to regional service delivery.

In order to move away from the property tax to new taxing options, it is also important for the General Assembly to address the long standing issue of tax-exempt entities. This is another mandate on local government because the tax-exempt status is granted by the state, but the impact is felt locally. Yes, tax-exempt entities provide employment, education, culture and social benefits to the communities that host them, but they receive municipal services for free, and there is no impetus, except good will, for them to pay a service fee in lieu of taxes. This places yet another burden on the residents of core communities to make up the difference. Prior attempts to divert state funds to municipalities with high levels of tax-exempt property have failed because of the state's own budgetary problems. One possible solution is the authorization of service fees charged to all property owners for specific services.

Inconsistent and non-uniform county reassessment is another area impacting the fiscal health of our core communities. Counties do not reassess on a regular basis, if at all. Consistent reassessment would bring property values in line with today's costs and would eliminate the fear of reassessment over time. Equally important, the value of tax-exempt property is not captured in reassessments. Even though a property is tax-exempt, it should be assessed in some uniform manner that allows a value to be attached. It is understandable that some buildings are impossible to value, but it is important to assign a value so that tax-exempt entities are more compelled to share the burden with their fellow residents.

### *In Conclusion*

The crisis facing our core communities is not going to go away without hard choices and reform measures from the General Assembly. It must acknowledge the serious nature of the crisis at hand and begin to work with core communities to solve the issues with true reform. Core communities are at a decisive point; failure will have serious and lasting consequences on the future of the Commonwealth. The Pennsylvania League of Cities and Municipalities and core communities across the Commonwealth call upon the General Assembly and the Administration to act!

*Pennsylvania League of Cities and Municipalities*

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***PLCM invites all Pennsylvania Core Communities to join the League in support of the Task Force goals.***

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