ISSUES

FIXING WHAT AIN'T ALL BROKE: THE GOVERNANCE DILEMMA

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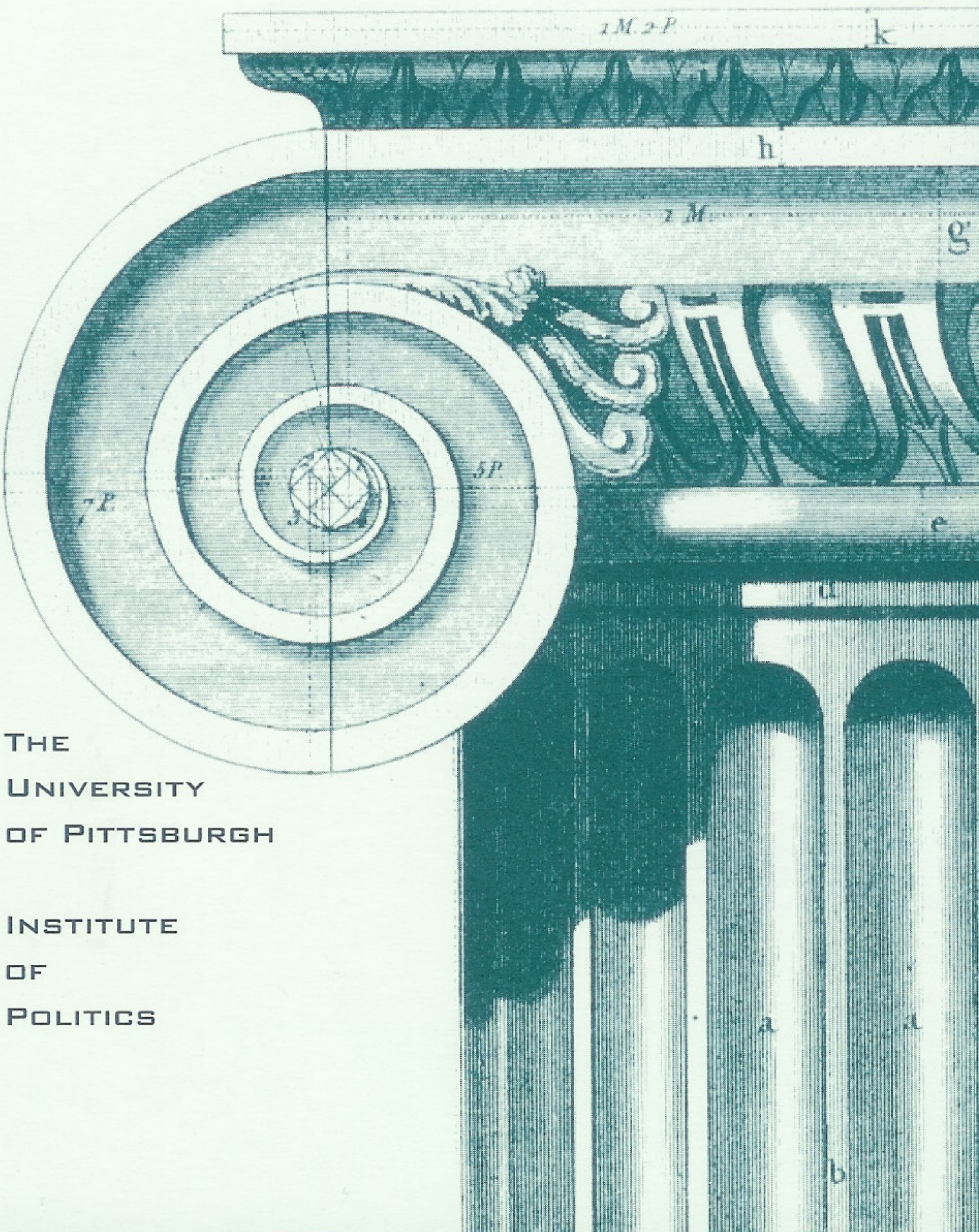

THE UNIVERSITY OF PITTSBURGH

INSTITUTE OF POLITICS

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FIXING WHAT AIN'T ALL BROKE
The Governance Dilemma

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Scene 6: A secretary perplexed by a request for an interview with her boss from a writer who says he wants to talk about "governance." She responds: "You mean 'government,' don't you?" The writer pauses, decides not to contradict her, and replies resignedly, "Yes, you might say."

All of these scenes have taken place recently somewhere in Pennsylvania. And, yes, you might say that all of them involve both governance and government.

That's because the dictionary defines "governance" as "(1) the act, process, or power of governing; government, and (2) the state of being governed."

But, nowadays, the term is most often used to pinpoint ways in which the act of governing can—in the eyes of the speaker, at least—be improved. Thus the term in Pennsylvania can be employed to cover a wide gamut of subjects, including:

- Improving the efficiency of municipal governments through mandating higher standards. (On the other hand, municipal officials want relief from the stream of costly mandates from the state and federal governments.)
- Improving municipal governance in Pennsylvania—which with more than 2,500 municipalities is surpassed only by Illinois. That can be (1) by *structural* consolidation, such as by mergers, something extremely difficult under present law. And/or (2) by *functional* consolidation through combining services across municipal boundaries. And/or (3) by strengthening the trans-boundary councils of government (COGs).
- County home rule, including making it possible for counties to take over more of the functions now excessively burdening some municipalities.
- Tax reform to allow counties, municipalities, and school districts lee-

way to solve their problems. To some this means substitutes for the property tax; to others going beyond promising revenue-neutral measures actually to advocate some that would increase the tax take. To others it means finding some way to procure revenue from tax-exempt institutions, such as hospitals.

• Another concept of tax reform calls for (1) establishing a regional assets district to help regional centers like Pittsburgh whose taxpayers foot the bill for assets benefiting an entire area, such as sports stadiums, zoos, aviaries and the like. And/or (2) establishing a tax-based sharing plan like one in the Minneapolis area that spreads to adjacent municipalities a portion of the increased tax revenues from a new economic development (airport, shopping center, factory) being located in any one municipality.

• Help for those distressed municipalities and school districts that are still in trouble even after prudent fiscal measures are taken, simply because their tax base isn't sufficient. The question is asked: Why should there be a local tax base of only $2,035 behind each school child in the Duquesne School District as compared to $6,713 behind a student in the Fox Chapel School District in the same county?

• Changing zoning powers, now lodged with municipalities, to allow a wider scope of interest, such as a county-wide approach.

• For some citizens groups, "governance" means greater access by citizens to governmental decision-making processes—being part of the takeoffs and not just the crash landings.

And while "governance" isn't yet a burning topic for the radio talk shows—let alone for the average citizen—it is arousing sufficient attention that it has been the subject of a major survey by the Citizens League of Southwestern Pennsylvania. And, significantly, it is one of four major objects of current attention for the Allegheny Conference on Community Development, the action vehicle for Pittsburgh's leading corporate executives.

Three factors are driving the mounting interest in "governance" at this point in the 1990s:

ONE—The problem of distressed municipalities and school districts, particularly in the old mill valleys where the tax base has been decimated by the closing of steel mills.

TWO—A growing concern by business leaders that the fragmentation of services with the governmental hodgepodge (130 municipalities in Allegheny County alone) is detrimental to any coordinated economic-development effort. This stems, too, from a realization that the Pittsburgh region has to gear up from the "95 percent is good enough" days of the past to the "total quality" required in today's highly competitive global marketplace.

Syndicated columnist Neal R. Peirce in a new book cites governance as one of three barriers or disabilities that major American cities must vault in the race to make it in today's international economy. The book by Peirce, who extensively covers developments in the states and cities, is entitled, *Citistates: How Urban America Can Prosper in a Competitive World.*

Peirce writes of "Americans' hesitation, one might say their paralysis, in creating effective systems of coordinated governance for citistates."

Note: *The other barriers Peirce discusses are also governance-related: (1) "the deep socioeconomic gulf between poor cities and affluent suburbs" and (2) "physical sprawl—the alarming environmental and social consequences of Americans' inability or unwillingness to contain urban growth within reasonably compact geographical areas."*

THREE—The crunch between citizen demand for more services coupled with ever-costlier mandates from the state and federal governments, on the one hand, and public resistance to more taxes, on the other. A disturbing variation on this theme, as bluntly described by one official, is: "They don't want to pay taxes for people who don't work," as though none of the benefits accrued to the better off.

Yet demands for better governance run into obstacles, both justified and unjustified. "If it ain't broke, why fix it?" contend many, including those who argue that just because help should be provided for a few distressed communities doesn't mean having to overhaul everything.

And while no one likes to talk about it, classism and racism also play a part. Wealthy suburbs want no part of poverty-ridden adjacent municipalities, especially if the latter are heavily populated by African Americans. Indeed, demographics aside, the reason why many of their citizens moved up onto the plateaus was to escape life in the smoky valleys, conditions now aggravated all the more by the decline of heavy manufacturing, even if, paradoxically, the offending smoke is gone.

On the other hand, there is a proud history of community behind most of the municipalities, the impoverished as well as the well-to-do. Often that, and not just the resistance of elected officials and police chiefs, is the reason merger efforts get nowhere.

The residue of resentment from long-ago annexations hangs in the political air, as detailed in an article by David Lonich in the summer 1993 issue of *Pittsburgh History*, published by the Historical Society of Southwestern Pennsylvania. Entitled "Metropolitanism—the Genesis of Municipal Anxiety in Allegheny County," the article details how Allegheny City and East End townships annexed by Pittsburgh felt that promised benefits never arrived, with older parts of the city continually favored.

And, certainly, there is something to the argument that the solution to the problems of distressed municipalities and school districts shouldn't be to drag down the better-off to some common level. Of course, given Pennsylvania's current barrier-filled annexation laws, that is unlikely. Any merger or annexation effort requires (1) an initiating petition from citizens of the affected municipalities and (2) a majority vote in BOTH municipalities.

But the desirability of maintaining communities pleasing to live in is clashing with the hopeless situation in which some of their neighboring municipalities and, in particular, school districts, find themselves. The question is: Is it proper that in Allegheny County there are districts that have 7 1/2 times the local tax base as an ex-milltown school district?

As Dr. Maureen McClure of the School of Education at the University of Pittsburgh puts it: "Those gaps are so great that state aid by itself can't be the remedy. You can't level up the Grand Canyon."

A further question: Is money alone the answer? That is, if a district has a small enrollment, with many impoverished families, can it provide the setting and the range of courses necessary nowadays for the rounded education necessary in today's world—whether the student is bound for college or for post-high technical training?

Most governance discussion focuses on municipalities rather than school districts—perhaps because the latter constitute especially touchy subjects. But for that very reason, they are very much the heart of the matter. Let us first turn to them.

WHO PAYS FOR EDUCATING JOHNNY?

The quality of the local public school is an undeniable factor in the choices families make in choosing a new place to live. This point is true even if they plan to send their own children to a parochial or private school because they recognize the local public school's importance in the quality of life, as well as in determining resale value.

Where it is advantageous, realtors definitely emphasize the caliber of the local school system. And the public-school situation is a reason why many people stick tenaciously to municipal boundary lines, lest mergers there pave the way for school mergers.

The other side of the coin, of course, comes with school districts where the socio-economic profile is less propitious. And it is especially true in the old mill valleys, where the decline of heavy manufacturing has sabotaged the tax base. Often the population, with the aging and with tax-exempt public housing, can't provide sufficient revenue either from wage or real estate taxes to meet the needs.

Often the rich and the poor districts lie side by side. But talk of any kind of merger arrangement arouses fierce resistance. True, one can assert with abundant proof that Pennsylvania's 501 school districts are far too many, and that for efficiency and tax savings there should be a new round of mergers.

But a Pennsylvania legislature still reeling from the after-effects of a two-step major consolidation effort in the early 1960s—which reduced 2,000 districts to 501—is hesitant to act anew.

It should be emphasized that not all of the reaction was based on classism or racism. Sometimes it was resistance to losing revered local sports teams. For instance, in Crawford County the merged Conneaut District kept three sets of teams from the previous districts. In Dauphin County two merged districts—West Shore and Central Dauphin—each continue with the same two football teams as before the consolidation. In such cases, the argument also is made that the arrangement allows more youths to play than if there were just one team.

Still, it is significant that Secretary Donald Carroll of the Pennsylvania Department of Education in August 1993 publicly suggested that merger was "the only long-term remedy" for schools with a declining economic base. Testifying before a joint hearing of the Senate Education and Appropriations Committees on financing distressed school districts, Carroll said:

"No one's been talking about this. I know it takes a lot of political courage. But we must have merger so that these poor districts enlarge their economic base."

At that point, there were only two districts in the state labeled distressed and therefore under the control of an outside board. They were Clairton and Sto-Rox. But Carroll noted that two other Allegheny County districts, East Allegheny and Cornell, were not far behind. At least nine others throughout the state are in the crisis stage.

Pennsylvania since 1959 has had a mechanism for helping school districts in financial trouble, now being applied in Clairton and Sto-Rox. In the 1960s it was mostly used to help troubled school districts in the anthracite (hard-coal) regions of Cambria, Lackawanna, Luzerne, Northumberland, and Schuylkill Counties. By 1963-66, 36 districts came under the law. The numbers gradually dwindled, thanks in part to the school reorganizations of the 1960s. But the decline of heavy manufacturing in Southwestern Pennsylvania changed the focus of attention in the past decade.

The distressed-districts law provides that if a district falls below the level of several yardsticks, the state secretary of education can declare it a distressed district and petition the local Court of Common Pleas to appoint two citizens to serve on a so-called Board of Control to administer the district until a sound fiscal structure is re-established. The state secretary appoints the chairman.

A Board of Control can exercise powers greater than those of a school board, including overriding levy restrictions and teacher contracts and overhauling and improving the management. It has access to state funds beyond the regular formulas. An outside board often can make the tough decisions difficult for an elected board to attempt. The theory is that by such measures a district can right itself.

And the process has proved efficacious in providing school districts some breathing room to recover, with the help of the outside intervention in improving fiscal procedures, for example. But the case of Clairton suggests the shortcomings of the present approach.

Clairton went under Board of Control supervision in 1984. With the renovation of the old high school building, with additions to house all children in grades K-12, the district appeared sufficiently healthy to return to local control.

But it was in enough financial trouble again to enter the distressed category in February 1993. (Sto-Rox had received the designation in May 1992.)

It should be emphasized that, unlike some other districts, the problem here was not mismanagement. On four separate occasions, the state Department of Education found no fat or corruption where spending could be reduced. The only recourse was to make cuts in advance-placement (AP) courses, sports, transportation, and vocational-education programs.

As Linda Croushore, executive director of the Mon Valley Education Consortium, bitterly puts it: "The only way to balance the budget was to punish the children for living where they do."

While Clairton is not the only school district in Pennsylvania in difficulties, it is an especially apt example of a faulty state school-finance system for other reasons. Unlike some other onetime strong milltowns, it still has an industrial plant—USX's Clairton Coke Works. But cutbacks in the coke plant's operations and consequent devaluation of its assessment have contributed to a situation in which the school district's aggregate tax base has dropped to $24 million from $50 million.

Tie in the amount of public housing there—tax-exempt and with low-income tenants, many aged. Note that the total reimbursement from the U.S. Department of Housing and Urban Development (HUD) in lieu of taxes for public housing in Clairton last year was only $7,000—and you see why Clairton has been in financial trouble.

Put in a tangible term, in Clairton 1 mill of property tax raises $17,000, whereas in Pittsburgh, for example, the return is $1 million. Therefore, when the state cut back on its aid for special education, the $1.1 million gap that that one move created for Clairton would have required a 65-mill increase to fill!

Linda Croushore says that the miracle is that the school district hasn't fallen apart educationally. She said that is because the community, the superintendent, the board, and the teachers association "have not indulged in fighting or in politics but, instead, concentrated on the children."

No wonder that to many observers, the Clairton story was clear proof that the present mechanism is not enough. As the *Pittsburgh Post-Gazette* in an August 25, 1993, editorial analyzed the situation:

"With some 1,200 students, Clairton is not outrageously small.... It is not overstaffed, its employees are not overpaid, waste is not rampant. Merging it with a nearby district will do little or nothing to improve its economies of scale. The quest is for more money, not better management."

In short, none of the remedies under present law addresses the fundamental problem that, in some cases, there simply isn't enough of a tax base to support a proper education for a child. As Pitt's Maureen McClure puts it, "The intimacy of their community feeling is all they have left."

McClure recently completed a study of education finance in Southwestern Pennsylvania. She makes these points:

"Our present system punishes both the teachers and the taxpayers in poor districts. The teachers are blamed for wanting a fair wage; it's unfair if they don't receive it. But to provide that fair wage, the taxpayers have to tax themselves proportionately much more than people in a rich district. So that's not fair to them, particularly if providing that teacher wage level means a lot of other elements—modern computers, sports—simply can't be afforded."

Further, McClure, an associate professor of administrative and policy studies in the Pitt School of Education, points out that "school boards must bear the burden of the assessment system, which is run by the counties. They can't change the assessments. So the county commissioners get all the political benefits for keeping assessments low, but pass off the liabilities to the school districts.

"Pennsylvania is one of only five states that doesn't have state-mandated assessments. That's why you have situations like Delaware County, which hasn't been reassessed in 50 years!" McClure says.

"And this business of imbalanced assessments feeds into the formulas for state aid to school districts, thereby compounding an already inequitable situation."

It is for all these reasons that people like Education Secretary Carroll are calling for broader solutions.

Yes, it's all well and good to say that money isn't the whole answer. Still, there's something amiss in governance when the Albert Gallatin District (Fayette County), the poorest in the state, has only $18,060 in local revenues to finance a classroom of 20 children—not even enough to pay the teacher's salary. Or take Duquesne (Allegheny County) with only $40,700 in local money per classroom, enough for the teacher but not for fringe benefits or anything else educationally.

Contrast that with two other Allegheny County districts—Quaker Valley with $126,920 for supporting a 20-pupil classroom and Fox Chapel with $134,260 for the same. The Pittsburgh School District figure: $95,280. (Figures provided by Dr. McClure.)

Given that it ultimately is the state's responsibility to see that every child in Pennsylvania has a good education, it's hard to argue that with such gaps the educational opportunities can come close to being equitable.

That conclusion has been reached by a group of rural and small schools, which have brought a suit against the state. The 1991 suit, Pennsylvania Association of Rural and Small Schools v. [Gov.] Casey, amounts to a belief that the legislature will not act on its own, unless forced by the courts.

More than 100 districts are involved, although only eight—and seven students—are specifically named. The listed districts are Apollo-Ridge (Armstrong), Corry (Erie), Everett (Bedford), Glendale (Cambria/Clearfield), Harrisburg (Dauphin), Northern Tioga (Tioga County), and Clairton and Duquesne (both in Allegheny).

Their contention is that the entire system of school financing, including state aid, is skewed against the poor and needs to be greatly overhauled. They hold that the system relies too much on local property taxes, thus denying the plaintiff districts the possibility of providing a constitutional level of educational opportunity. (In 1992, the association amended its petition to add the issue of special education to its complaints about the basic state-aid formula.)

Several petitions to intervene were filed. After hearings, the Commonwealth Court granted one of the petitions, from a group called School Districts for Excellence and Equity, with Abingdon in Montgomery County a leader. Contending its districts would be affected by any ultimate decision, the group also argued that there is nothing wrong with the present financing system, except that the state hasn't provided its share of the obligations.

However, the court denied another

petition, that of Central Bucks, one of the wealthier districts, on grounds that its views will be represented by parties in the case, including the Commonwealth defendants—specifically the state Attorney General's Office, which is defending the constitutionality of the present system.

Timothy Allwein, lobbyist for the Pennsylvania State School Boards Association, says numerous solutions are being bandied about. There's "talk of county-operated schools, except in Allegheny and Philadelphia Counties. Also, people are seeing more usefulness in the intermediate-unit approach." And in shared services—business, purchasing, cafeteria. Even mergers, "but wealthy districts want nothing to do with it." Alllwein comments, "I'd be surprised if we see any mergers at all."

It is worth noting that far-sighted superintendents in some of the wealthier school districts are quietly seeking to strengthen their legal posture for the future by lending a hand to some specific impoverished district or districts in their county. That can include interactive training sessions for teachers, "uplinking" televised classroom presentations by master teachers, and actually sending teachers on occasion.

These school officials have to be discreet about it, both to avoid arousing fears among their own district patrons and to shun any appearance of patronizing those they are helping. But their point is that if the courts do move in on them as vulnerable targets, they hope to prove that their "good faith efforts" should exempt them from being forced into mergers.

At this point, the eyes of the wise are upon Texas, with its latest plan for resolving a titanic struggle over school financing inequities that has gone on for decades. The latest stage of the battle has been a lawsuit, *Edgewood v. Kirby*, brought by a poor school district to force greater equalization of school financing.

The Texas Supreme Court agreed with the Edgewood plaintiffs, ordering the legislature to act. In reluctantly complying, the Texas legislature put on the ballot a referendum for redistribution which opponents promptly labeled "the Robin Hood Plan." Texas voters turned it down in May.

But the legislature was still under the gun to meet a court deadline. So in June it passed an "options" law, Senate Bill 7, which won't have to go to the voters. Both sides to the dispute, rich and poor, immediately challenged the new law in court.

Whatever the outcome, the new Texas "options" law provides a pattern bound to be of interest to Pennsylvanians seeking a solution. In general, it offers options to the 109 "rich" school districts in Texas that have property wealth above $280,000 per student. The options as to how a district may decide to share its wealth include:

1. Merging tax bases with an adjacent "poor" district.
2. Sending money to the state to redistribute as it wishes to poor districts.
3. Establishing and financing programs

to educate students in poor districts.

4. Transferring non-residential property (i.e., business property) to the tax rolls of a poor district.

5. Outright consolidation with another district.

The Pennsylvania Department of Education recently wrote a paper proposing what could be called a "partitioning process" for dealing with distressed districts. It would amend the current law to provide a special board of control with additional power to petition the County Court of Common Pleas to:

1. Dissolve the distressed district.

2. Appoint a committee of representatives from each of the various contiguous school districts to determine a fair and equitable division of territory plus distribution of pupils to other suitable districts within the intermediate unit. The assets and liabilities of the dissolved district would also be resolved through this procedure.

Increased state funding would be provided to the receiving districts for a number of years to help ease the transition of pupils. These funds would be based upon the percentage of children initially received by the district and would be phased out over a period of time. Further, no receiving district would have its state aid ratio negatively affected.

The rationale: "Over the next five years, approximately 2 percent of the commonwealth's school districts will meet one or more of the criteria that would make them eligible for distressed status.... Many of these districts will not be able to be restored to fiscal solvency through the special powers given to a board of control appointed through the distress-declaration process. This is because these districts' tax bases and population have eroded to the extent that they cannot continue to be sustained as independent school districts and provide an appropriate education for their students."

The paper further notes: "The dissolution of a district would be a last resort effort when all other special powers of a board of control have been exhausted with no clear resolution in sight.... This program will provide the commonwealth with a level of comfort that it will be able to continue to carry out its constitutional duty to provide an education for all of its youth."

Dr. Joseph Lagana, executive director of the Allegheny Intermediate Unit (AIU), is intimately acquainted with the problem, as both wealthy and distressed districts are among the 42 in his service area. He notes that not all the districts approaching distressed status are the victims of mill closures. Again populations, out migration, and diminishing tax bases also are responsible.

While making clear he does not speak for the AIU board of directors, Lagana says he shares the belief of many that the present Pennsylvania system of funding education simply isn't working as it should. "State policy makers have to be courageous, sensitive, and creative if they are to create a new funding system that will result in workable solutions.

"A piecemeal approach will not work; fixing one element of the system while ignoring others is akin to performing heart surgery while hoping the patient's failed kidneys will recover on their own. A systems approach must be taken," Lagana says.

Lagana outlines seven elements that discussion with concerned individuals and policy makers has convinced him must be addressed:

1. *Geographic boundaries*. The current boundaries must be rethought, with a look at new boundaries that will broaden the base of financial support. Broadening the boundaries can take different forms, such as (a) the state providing financial incentives and technical resources for a district to work with other adjoining districts or newly created administrative units to mutually solve their problems; or (b) functional consolidation across current boundary lines, providing for economy of size with increased efficiency in staffing, purchasing, etc.

Four to six administrative units instead of the present 43 (Pittsburgh included) might better serve the residents of Allegheny County. These administrative units could follow the current lines for the area vocational-technical schools—southeastern, eastern, northern, and western. There should be openness to having school districts span across counties to account for those counties that have only districts with very limited tax bases.

2. *Expansion of local taxing options*. Districts rely on property taxes because it is the only option most have for raising substantial revenues. Taxing options under Act 511 of 1965 should be restructured.

3. *Changes in taxing authority*. If, for example, home rule comes about for Allegheny County, a second referendum could amend the charter to divide the county into four to six school service areas, each with taxing powers similar to what local districts how have. Or the county could be given authority to assess and collect taxes to support the schools and distribute the revenues.

4. *Statewide property reassessment*. The Pennsylvania system of assessment ranks among the least efficient of all the 50 states. Much of the problem with relying on the property tax lies with the underlying inequities in the assessments methods among the 67 counties. In some counties reassessments are conducted yearly; in many sporadically.

5. *State policy on dissolving school districts*. State law is silent on the dissolution of school districts. There needs to be a way for the state to dissolve impoverished districts that have lost their tax base and have no way to recover and provide ways to transfer their students to other schools.

6. *New role for Intermediate Units*. More authority could be given the 27 IUs in the 67 counties. The IUs could be given a role like the one county school offices had until the 1960s. The county school offices were a significant force in helping the state address similar funding concerns that emerged approximately 40 years go. Many IUs are positioned to assume that responsibility.

7. *Equalized subsidy for basic education (ESBE)*. The state ESBE formula for allocating state money to local districts needs to be changed. The state should be acknowledged for its support of a foundation program for schools—guaranteeing that all districts have a minimal level of funding for each student. BUT the support must be given substance with actual dollars, Lagana concludes.

Pitt's McClure proposes that everything outside of residential property and purely local enterprises such as Mom-and-Pop stores be pooled at a regional level and redistributed. This would include tax revenues from everything that provides jobs or services for an area that stretches outside the district, including factories, shopping malls, airports, parking lots, farm lands, and newspapers.

MUNICIPALITIES: THE SPOILING APPLE PROBLEM

Just as with school districts, the problem of distressed municipalities is bringing the question of governance to the fore.

Actually, something concrete has been done in Pennsylvania. The legislature in 1987 with the passage of Act 47 established procedures for the state Department of Community Affairs (DCA) to determine if a municipality is distressed and to find ways to do something about it.

For that reason, defenders of the present system call simplistic those analyses that contend that the presence of a few "spoiling-apple" municipalities means the whole "barrel" is hopelessly tainted.

But others contend the case is broader than this. For instance, Vincent Sarni, chairman of the Allegheny Conference on Community Development, in a 1991 conference address drew from his experience as chief executive officer of PPG Industries, Inc., to say:

"No area is in greater need of organization than the way we govern ourselves within this region. Speaking with some experience as the head of a company attempting to become truly global in nature, I can tell you that our community can no longer expect to be competitive in a world economy or serve those most in need if we continue to rely on the fragmented and outdated local-government systems now in place."

Referring to a "choices" survey made by the Conference, Sarni said that no other proposition received more agreement than the following: "We have too many local governing bodies. Current financial and operational management of regional facilities is not working. The Conference should work with others to identify and encourage opportunities for consolidation and for new organizational approaches to the management of regional facilities and services."

The Conference since has formed a task force on governance, headed by lawyer Charles Queenan, and a task force on regional economic development, chaired by Dr. Robert Mehrabian, president of Carnegie Mellon.

In his 1991 address, Sarni went on to stress that the Conference's action plan "probably will not include a metropolitan government. That is an approach fraught with difficulties. However, on the other hand, it doesn't mean that we should not examine approaches to regional cooperation and governance in particular functional areas."

At that point, Sarni specifically mentioned the idea of a regional assets district. (That concept will be discussed in more detail below.)

But, at present, Act 47 is the only game in town. Since 1987, 14 municipalities have been declared distressed. The act establishes a set of yardsticks to determine whether a municipality is in sufficient trouble to warrant being designated as "distressed." If so, the DCA hires a coordinator, a consultant, or a team of consultants to prepare a three-year comprehensive recovery plan. Public hearings are held at every stage of the process.

Act 47 gives a distressed municipality, operating under a recovery plan, several rights it ordinarily wouldn't have:

• The right to override levy limits—with approval of the courts.

Particularly important in this respect can be the right to exceed the earned income (wage) tax rate.

That's because, under reciprocity rules, a non-resident's tax payment goes back to his home municipality, if it has a wage tax. Act 47, by allowing a municipality, for example, to go above the regular 1/2 percent rate, to, say 1 1/2 percent, allows it to reap more revenue from non-residents by overcoming part of the reciprocity "loss" in taxing non-residents.

• When a labor contract comes up for renewal, the right to override certain collective bargaining rights in order to set certain limits, such as on wage increases, holidays, etc.

The "distressed" designation also makes possible an influx of state funds. Since 1987, the DCA has provided $1.4 million in grants and $8.1 million in no-interest loans.

Act 47 has produced numerous successes—municipalities brought back to life from the grave.

DCA officials expect it to work as it should in Scranton, a recent surprise addition to the list of distressed communities—to the embarrassment of one of its most prominent citizens, Governor Robert Casey. There, DCA officials believe, Act 47 will help local officials tailor their services to a community that has shrunk from 120,000 to 80,000 in recent decades.

Ellen Kight, DCA's director for the Southwestern Region, has been involved in more Act 47 action than most. She can cite both the act's advantages and disadvantages.

Kight points to Ambridge, the first community to be removed from the distressed list. There the community brought in a professional manager and worked with the DCA, Beaver County, and the Beaver County Development Corporation to get back on its feet. Even troubled Aliquippa across the Ohio River is on a stronger financial footing now.

"A major advantage of Act 47 is that it helps a local community know what good governance is all about," Kight says.

But the procedures under Act 47 have some disadvantages of their own, Kight points out. On the one hand, it seems to let local elected officials off the hook, because they can blame the DCA and its appointed coordinator for actions taken under the recovery plan. But, on the other hand, decision making is all that much harder once a municipality goes off the distressed list. "While it often makes for a greater struggle, it really is best when elected officials make the decisions entirely on their own," Kight says.

Act 47 has been successful in bringing communities back on track, she says, IF there is a tax base there. "But if there is none, who pays for the police and for fire protection?"

DCA Secretary Karen Miller elaborates, "There is a whole range of what causes a municipality to get in trouble. It may be badly run—whether because of corruption or numbskullery. We can help such a situation with Act 47.

"But what about well-run communities, such as Duquesne in Allegheny County, where the problem is the lack of a sufficient tax base and where Act 47 help may not be sufficient?"

As Miller told the state House Appropriations Committee in March 1993, "Human and regional economic bounds are not reflected by municipal lines, but our tax system is. When economic activity moves from an aging city or borough to a growing suburban township, taxes leave but services needs do not. In fact, it is an unpleasant fact of life that the needs often multiply as the population of the municipality becomes increasingly unable to pay.... Substituting one kind of tax for another within municipal boundaries is of little use when there is no tax base."

Therefore, just as with the Board of Control system for school districts, Act 47 may not be the cure for some townships and boroughs that simply are not viable no matter how much aid and advice comes their way. That problem has prompted critics to contend that it's simply absurd for Pennsylvania to have 2,500 municipalities.

These skeptics wonder if Act 47 was such a good idea after all, in that its "Band-Aid" arrangement has kept alive municipalities that should be merged with their neighbors. Indeed, they argue, for tax efficiency, economic growth, and state and regional competitiveness in the international arena, it's high time to do something about this "horse and buggy" arrangement.

The Citizens League of Southwestern Pennsylvania in a 1993 report after an eight-month study by a 22-member committee concluded:

"We believe that our existing governance, problem-solving, and service-delivery mechanisms are being overwhelmed by the rapidly changing environment. In the post-Cold War economy, the focus has shifted to regions as the basic unit of economic competitiveness. Our region, Southwestern Pennsylvania, is experiencing rapid change resulting in population loss and fiscal disparity. At the same time, there is less federal and state government assistance to address the resulting problems....

"The region is also experiencing a turnover in its leadership, especially in the private sector and universities. Turnovers in public sector and other community leadership are inevitable in the 1990s.

"In addition, the region is experiencing growing fiscal disparities. The mill towns and other communities that were poor in 1980 are poorer in 1990; the ones that were rich in 1980 are richer in 1990. In Allegheny County, the Pennsylvania Economy League found that the tax capacity of the most fiscally distressed communities decreased by 5.5 percent over the 1980s; the tax capacity of the least fiscally distressed grew by 43.2 percent. The average tax capacity of the latter was 3.2 times as great as the most fiscally distressed in 1980; by 1990, the gap had grown to 4.8 times as great.

"Finally, citizens participating in our deliberations indicated that they are more concerned about the quality of services they receive than about which level of government or other community organization is delivering them.... They are angry about having to devote an inordinate amount of time to assuring the delivery of services that they expect to receive without repeated demands," the Citizens League's 1993 report said.

Advocates of change find that local governments in Pennsylvania are extremely well buttressed against modifications. For instance, for a merger or annexation to take place, there must be initiative petitions from citizens of both municipalities involved, plus a majority vote by the citizens of each municipality. The paucity of mergers in recent generations is proof of how difficult that is to accomplish.

The Pennsylvania Constitution when rewritten in 1968 mandated that the legislature within two years enact uniform municipal boundary change legislation, addressing merger, consolidation, and annexation. It didn't happen, as this recent report from the state's Local Government Commission explains:

"However, due to the controversy which surrounds this issue, particularly annexation, the legislature has never adopted the boundary change procedure stipulated in Article IX, Section 8 [of the Constitution]. As a result, in 1974 the Pennsylvania Supreme Court in *Middle Paxton Township et al. v. Borough of Dauphin et al.*, ruled that, barring any legislative resolution of this matter, the manner in which a municipal annexation could be accomplished in the future would be through local initiative and referendum where the question must pass by a majority vote in those municipalities involved."

However, a move is now afoot to add one alternative to the merger procedure—that is, to allow the boards of the involved municipalities to take the initiating step. That proposal, embodied in Senate Bill 818, would leave intact, as an alternative, the citizens' petition route in present law. And, in either case, the question would have to go to a referendum in both municipalities, with a majority vote in both jurisdictions required.

The purpose of the proposed change, as outlined in the Local Government Commission analysis, is "to effectuate a portion of the boundary change mandate (i.e., municipal consolidation or merger), while upholding the voluntary nature of this procedure handed down by the court in *Middle Paxton Township.*" Significantly, the analysis adds: "Annexation, another form of boundary change, is not addressed in this legislation due to the vehement opposition that would be generated."

***Note:** This piece of legislation was introduced in the 1991-92 session as SB 792, passed the Senate 46-0 and the House 196-0. It was referred to the Senate Rules and Executive Nominations Committee where* *it died because of final adjournment. SB 818 constitutes a renewed attempt.*

Meanwhile, a quiet, private foundation-financed consolidation effort has been going on under the auspices of the Pennsylvania Economy League. With $300,000 in grants from the Howard Heinz and R. K. Mellon Foundations, the Economy League during 1992 and 1993 has been involved in 35 sites in 29 counties. The major success to date has been the consolidation of St. Mary's Borough and Benzinger Township in Elk County into what is called the City of St. Mary's—after an earlier attempt had failed.

Other projects include talks among five water authorities in Armstrong County; among 24 water authorities in Cambria County; and among six counties to the north of Pittsburgh—Armstrong, Butler, Clarion, Lawrence, Mercer, Venango. As described by Dr. David Miller of the Economy League, the last effort is at the task-force level, seeking what services those counties can do more efficiently together, such as purchasing, personnel, planning, mapping, children and youth services, and regional jail facilities.

As with the problems with school district mergers discussed above, the factors of racism and classism enter the picture, as do considerations of history and of quality of life. The invidious and the commendable sometimes are intermingled, sometimes not.

DCA's Kight adds to the list fears over lawsuits on pensions and benefits after a merger. "Also, there is a fear that a regional police department might not respond as quickly."

State Representative Tom Michlovic of North Braddock says the latter fear is counter-balanced by the fact that crime spills over from municipality to municipality. Even "safe" municipalities are finding they cannot isolate themselves just because they have their very own police force.

Two new factors are entering the equation, which may cause functional, if not structural, consolidation. One is the ever higher federal and state requirements for purity in water supplies, including covered reservoirs, a highly expensive proposition. Some believe this will force some municipalities to consolidate one way or the other.

But John Gardner, lobbyist for the Pennsylvania State Association of Boroughs, believes that the new requirements will only drive municipalities to set up more authorities, thus escaping municipal levy limits. (More on this later in this section.)

Another factor is that of fire protection, which in most localities in Pennsylvania is provided by volunteer fire departments. Gardner says that rural areas are better off than suburban municipalities "where it's harder to get recruits from the coat-and-tie people." He notes that many municipalities are approaching the problem by allocating tax money to the VFDs, paying their workmen's compensation, and allowing members of their work crews who are volunteer firemen to continue to be paid when they go out on fire calls.

DCA Secretary Miller sees two different trends going on. One is what she calls "spatial segmentation," the setting off of enclaves, including what are in effect walled enclaves. The other, however, is the growth of regional cooperation.

But for both these reasons, there are some who are resigned to present boundaries, while believing governance can and should be improved in other ways. One such is Christine Altenburger, professor emeritus of the University of Pittsburgh's Graduate School of Public and International Affairs (GSPIA). Altenburger is unusual in academia in that she has had practical experience as a member of the Penn Hills Council and was on the Home Rule Commission that brought home rule to that suburban community in 1976.

Altenburger says: "I come away discouraged that after 35 years of seeing the same problems and the same solutions offered that nothing happens. I see little on the horizon to give me hope. If we wait for communities to join together voluntarily, we're going to wait a long time."

She says that several years ago, with heightened concern about the distress of many communities in the Monongahela Valley, one proposal envisioned the merger of some 37 Monongahela Valley communities into a "City of the Mon." Altenburger felt this made sense. It would join together a group of communities rich and poor and sufficiently diverse to benefit from economies of scale, permitting an enhancement of municipal services. It would also offer a consolidated population large enough to shore up the potential for effective leadership in all areas of governance.

"BUT, political feasibility? Unless the state were to mandate it, No. And I don't see much courage for that in the legislature." Altenburger adds. "But the reasons are not all selfish."

Each local government reflects a unique history and a unique set of values. These, in turn, are reflected in the standards set for service delivery, governance, and the physical environment. Any attempt to merge communities with diverse values and environments is seen as threatening to a "way of life."

Therefore, Altenburger says, she has become resigned to the idea of allowing municipalities to maintain current boundaries, but with a few important provisos. All local governments should be required to meet minimum standards in such areas as general management, financial management, and the delivery of basic services.

"How can you quarrel with a standard, for example, which requires each local government to provide police protection 24 hours a day, seven days a week? Or that each municipality have a professionally trained person managing day-to-day operations and finances? Or that accounting, auditing, and budgeting systems meet national, generally accepted standards? How can you find acceptable accounting systems that are written on the back of a matchbox?"

Altenburger asks.

Local governments not meeting standards would be required to gear up: By entering into formal contractual arrangements with neighboring municipalities. By turning to a Council of Government. By sharing with one or two other municipalities a professional manager and/or finance director.

A most important alternative for non-viable local governments is an enlarged role for county government, Altenburger says, including the right to take over those communities that cannot meet minimum standards of the kind she describes.

That would require legislation to create a process of unincorporation for "hopeless" municipalities. (At present in Pennsylvania, every acre of land is in some incorporated community; 45 states have unincorporated territory where the county can provide the needed service functions.)

"Of course, a county taking on this enlarged role would need more revenue resources," Altenburger says. (This subject will be treated in more detail in the following section of this paper.)

It is worth noting that one leader in the field, DCA Secretary Miller, is skeptical of the idea of unincorporation. "Some counties really are quite unsophisticated in terms of taking on such added responsibilities. And in Pennsylvania you have 300 years of tradition behind the present arrangement."

Dr. Guy Peters, a professor of political science at Pitt, doesn't buy the idea that "tradition" constitutes an impossible barrier. Peters notes that in recent years such a tradition-bound nation as Sweden has reduced the number of its municipalities to 270 from 2,500. Britain and Germany have done much the same. Only France among the major Western European nations hasn't.

Peters concedes that these are unitary national governments. But Pennsylvania is a unitary government, too, in the sense that the municipalities are creatures of the state. "The point is that we accept a greater variability in services—depending upon the ability to pay—than citizens of Western Europe or Canada would be willing to accept," Peters says.

He suggests the idea of "catchment areas" for services. This would recognize that for police and fire services, relatively small areas are best. For garbage collection and water, much larger areas make sense.

However, ideas for mandated change do not sit well with representatives of municipal associations. As far as Elam Herr is concerned, there are too many mandates already. Herr is executive director of the Pennsylvania Association of Township Supervisors.

"It's easy to spend a third party's money—easy for the feds or the states to require municipalities and school districts to do something, but without giving them any money to do it," Herr says.

Moreover, the legislature often whittles away at what revenue sources are available. For instance, any municipality that didn't have a business privilege tax in 1989 has now lost the chance to impose it. Municipalities also face continual threats to the 10 percent amusement tax. Already, for example, the amusement tax for ski areas has been cut to 4 percent. The result is more of a shift to real estate and wage taxes, despite public outcry against them.

As to standards, Herr cites the difficulty in a state as diverse as Pennsylvania of writing standards suitable for all.

Association officials like Herr and Allwein are skeptical of all the savings touted for mergers. Herr notes, "You still have to snowplow the same miles of roads whether it's one or two municipalities—and provide police protection the same way." Allwein says a school merger may save the salary of one superintendent "but that's about all. In a merged district, you still have the same number of kids to educate as you did in two."

To questions raised about administration and management, Herr points out that the various municipal associations, as well as the (DCA), hold regular and well-attended training sessions.

Here, the municipal associations receive support from an unexpected source. DCA Secretary Miller, herself the former mayor of Reading, is leery of too many specific requirements. She feels that they can constitute red tape, which chokes "initiative and creativity."

John Gardner of the boroughs' association says, "Why don't we just let elected officers do the job they were elected to do?"

The municipal associations as well as DCA Secretary Miller also point to the many improvements in services already taking place. Miller says that when she took office six years ago the agency placed a priority on pushing for intergovernmental cooperation. Already there has been "some leapfrogging" in that direction, she holds, helped by "Attaboy!" praise from the media.

She notes that people often argue that a reason people unstintingly defend municipal boundaries is because they want to keep their local police. (Cynics say this is fueled by what could be called the "they know me" syndrome: If my son is stopped because his car is weaving down the road, my local police know our family and will bring him home rather than file drunken driving charges.)

But, interestingly enough, Miller says, mergers of police departments often are becoming the first step in cooperation—partly because of the cost of maintaining full-fledged forces. When she took office six years ago, there were 10 merged departments; now there are 19; and 20 merger studies are underway. (Of course, Pennsylvania has a ways to go: With 900 police departments in its more than 2,500 municipalities, the state has one-fourth of all the police departments in the entire United States!)

Elam Herr points to an increasing number of agreements, such as two in Lancaster County. There Lancaster city police are patrolling Lancaster Township and Manheim police are covering East Petersburg. And he cites northern York County, where a group of municipalities for two decades now has had a large, quite professional police depart ment.

Moreover, some municipalities are beginning to cooperate on such matters as purchasing and public works departments. An important development is the growing use of what are called "circuit-rider officials"—managers, fiscal officers, even public works directors—who, like pioneer pastors on the frontier, administer more than one municipality on an individualized basis. That way a small municipality can keep its boundaries and still afford to have professionals at the helm.

The DCA of late has been experimenting with predicating "enterprise zone" designations and grants upon multi-municipality applications. Miller says that of the last six such grants, five involved more than one municipality.

DCA Secretary Miller notes one breakthrough: Harrisburg volunteered to extend its enterprise zone to the neighboring communities of Steelton and Highspire.

For another example, there is the DCA's Heritage Parks Program, designed to preserve natural, cultural, and recreational resources on a regional scale and "to enhance, manage, and market the resources for tourism economic development." Eligible applicants have to be either a municipality—preferably a county—acting on behalf of other municipalities in a heritage-park region, or a nonprofit acting on behalf of the region's municipalities. Currently, the DCA is dealing with eight project areas, from the Delaware and Lehigh Canal Heritage Corridor in the east to the Mon Valley/Steel Industry Heritage Park in the southwest.

Of course, an important move in intergovernmental cooperation has been the development of the councils of government (COGs), something the DCA has pushed. Such officials as State Representative Michlovic are high on the COGs; he particularly cites the effectiveness of the Turtle Creek COG in his legislative district.

Cynics say in many counties the COGs were established as the easiest way for the county commissioners to obtain and dispense federal block-grant funds. For DCA's Ellen Kight, this constitutes a liability—the COGS are too dependent upon outside subsidies. David Miller of the Economy League warns that putting only distressed communities into a COG is no good; "Poor plus poor doesn't equal rich."

The strength and effectiveness of the COGs depend upon how much latitude and money their constituent municipalities will grant. But some people insist they should be the future in governance—predicated upon the legislature granting them taxing powers.

But municipal association officials don't agree. Elam Herr, for example, contends that that would only add another layer of government and cost to the taxpayer. Moreover, COG officials are not directly elected as such by the citizenry, he added.

One other element of governance that has been questioned of late has been the local public authorities. There are more than 2,000 such water, sewer, or solid-waste authorities in Pennsylvania, most operated under the Municipality Authorities Act of 1945.

Also included are specialized authorities established from time to time by the legislature covering such functions as housing, redevelopment, industry development, stadiums, auditoriums, and transportation.

A critique of the authorities was contained in a recent "management guide" published by the Coalition to Improve Management in State and Local Government, then located at the H. John Heinz III School of Public Policy and Management at Carnegie Mellon. It said:

"The shortcomings and inadequacies in many local public authorities in Pennsylvania are due to deficiencies in the Municipality Authorities Act of 1945. Its provisions fail to assure that authorities will be established only for appropriate purposes, that qualified persons are appointed to boards, that every authority must have a general manager or chief executive, that conflicts of interest must be avoided, and that the authorities are accountable to the governments that created them and thus to the public."

A critique that gained much more public attention was contained in a 1992 series of six articles in the Greensburg *Tribune-Review* concerning the Municipal Authority of Westmoreland County. The series revealed some political favoritism and apparent nepotism—relatives of authority board members on the payroll—and questioned salary and benefits for board members. That prompted state House Resolution 354, which directed the Local Government Commission to conduct a review of compensation and hiring practices, contracting procedures, and rate making of large municipal authorities across the state.

The review gave a relatively clean bill of health to the authorities in general, recommending that no legislative action was warranted concerning a number of activities surveyed, including nepotism (only 38 of the 2,667 employees in the authorities surveyed could be thus classified). Exceptions where the commission felt a legislative look was needed were (1) the handling of customer complaints; (2) casual attitudes about holding public hearings on rate changes; and (3) the compensation of authority board members who also happen to be members of the governing board of the municipality that established the authority.

The Citizens League report on governance sums up the matter of municipalities by listing such "strengths" as:

• The multiple small government jurisdictions traditionally offer citizens easy access to their leadership and a sense of "community" as well as choice and control.

• Intergovernmental efforts have been undertaken with positive impacts. "The COGs stand out as a major example of municipalities attempting to streamline their operations through coordinated and shared services."

But the report also lists numerous "shortcomings":

• The focus on the municipal level of government has resulted in an imbalance of power among governance structures. "Neighborhood, county, intergovernmental, and regional governance structures need to be strengthened to address the problems that municipalities are unable to address on their own....Something as crucial as land-use planning cannot continue to be a decision solely of individual municipalities."

• There is a growing economic disparity between rich and poor communities that is not being directly addressed. "Citizens cannot be equal partners in 'stewarding' the region's resources when some communities are placed at a disadvantage due to the state of their tax base or the color of their skin. This growing disparity needs to be arrested and reversed if the region itself is to survive and prosper."

• The result of these regional shortcomings is an alienated citizenry. Citizens are often reactive rather than proactive "because their options are so limited. One participant indicated that it is no surprise that we are unable to stop the population loss, especially of youth, from our region."

DCA Secretary Miller includes in her analysis such additional thoughts as these:

"We have to convince people that things have changed... that we need more technical schools in local government administration.

"There needs to be a tightened definition of tax exempt property. It's not just in the cities like Pittsburgh; often you find tax-exempt property in the suburbs, such as old welfare tracts.

"The property-tax system was built on expansion. What happens when it doesn't? We have to look at tax-base sharing.

"We have to begin thinking more of cluster-development zones, rather than strip development. Yes, we want jobs, but we have to save farmlands, too," Secretary Miller says.

ARE COUNTIES THE BEST HOPE?

Intertwined with many of the proposed solutions for improving governance is the role of county government. This is especially true for Allegheny County.

The reason is that, short of multi-county arrangements, the counties offer the best bet for a regional approach to problems. Again, this is particularly the case with Allegheny County, where county government provides an unusual number of services. These include transportation (the Port Authority Transit system, the airports); education (the Allegheny County Community College system); health (the County Health Department) and criminal justice (county police, district attorney, public defender, coroner, jail).

Rather than talking about some regional overlay of government, it is argued, why not extend the powers of county government into other areas?

One example, already cited, is Dr. Lagana's proposal for giving the county more of a role in the public-school system. Curiously, this might be a "back to the future" renewal of the role of county superintendent, which was replaced by the intermediate-unit concept in 1971 after a decade of debate following the great revamping of the Pennsylvania school system in 1961.

Another governance reform frequently urged is that of giving more of the powers of planning and zoning to the county. Needless to say, this proposal would be strongly opposed by the boroughs and townships, where that power presently resides.

But advocates of this reform contend this is the only way to an orderly approach to enhancing the region's quality of life. In particular, it is argued, this would do much to end the dog-eat-dog competition of municipalities for new taxable wealth, something that often leads them to make unconscionable concessions to developers. (Another proposed solution to this problem—tax-base sharing—will be discussed below.)

In 1990 and 1991 a large panel of citizens worked with the Allegheny County Planning Department on a long-range plan called Allegheny County 2001. The task force on development called for "empowering the county to approve developments with impacts beyond a single municipality."

Sadly, as with most of the other recommendations from six task forces, the Allegheny County commissioners have taken no action—even though they initiated and lauded the Allegheny County 2001 process.

In the Allegheny County of 1993, the differences of opinion on the county's role partly explain varying attitudes on how and whether to make yet another home-rule effort. Twice in the 1970s, government study commissions formed under Act 62 wrote charters, only to see them rejected by the voters.

Citing that experience, County Controller Frank Lucchino has proposed a simplified move to that end. Instead of going the government study-commission route, why not take to the voters the adoption of the current second-class-county code as the charter? (Allegheny is the only county in the state classified as second class; with Philadelphia the sole first-class county. Bucks, Delaware, and Montgomery are classified as second-class A and the other 62 are scattered through classes 3 to 8.)

Six counties adopted home rule in the 1970s—Philadelphia, Delaware, Erie, Lehigh, Luzerne, and Northampton. Berks is now going through the process. Some counties other than Allegheny tried it and failed; Dauphin and Centre fell afoul of heavy resistance by elected row officers fearful of the abolition of their posts.

The Lucchino plan immediately had its critics. One has called it "an Edsel plan" that "merely institutionalizes incumbency." Another suggested that the proper route would be to amend Act 62 to remove from the cumbersome two-step process the part about electing members of the Home Rule Commission—something that on occasion has brought to commissions persons with off-beat agendas that spelled doom when the plan went to the voters. Let members be appointed, she suggested.

But the most publicly voiced objection to the Lucchino plan has come from Larry Dunn, the Republican minority member of the Allegheny County Board of Commissioners. Dunn fears this procedure would make it possible for the voters later to abolish the current provision that no more than two commissioners can be from one party. That clause insures that the minority party will always be represented—something of importance to Republicans in a Democratic-dominated county.

A second major objection comes from those who think any move toward Allegheny County home rule should truly attack major flaws in the present system. The prime example cited is the three-member board that (1) diffuses executive power and (2) combines the executive and the legislative in direct contradiction of the separation-of-powers doctrine basic to the American system of government.

For example, the Citizens League governance report specifically recommends that "the executive and legislative functions of county government, currently joined in the Board of Commissioners, be separated." Its rationale:

"Day-to-day management of county departments could be more effective if it were under the domain of a single executive rather than a legislative committee. The county executive would focus all of his or her attention on the efficient and effective management of county operations. With little or no administrative responsibility, the commission could devote their time to developing policy for guiding county government, overseeing the implementation of policy, and addressing the problems facing their constituents."

While the League report doesn't dwell upon it, the other major arguments for the change are (1) the check-and-balance concept and (2) the idea that with a legislative council—probably by district—citizens would have a greater chance for input.

Three counties—Erie, Lehigh, and Northhampton—in voting for home rule adopted a plan calling for a single elected executive and a legislative council. Delaware adopted a five-member board.

The anomaly is that a legislative council, by offering the two opportunities just mentioned, can arouse public attention on many an issue, occasioning vociferous debate which can rouse criticism that "It's a circus." Isn't it strange that if the three commissioners in a given county choose to settle everything behind closed doors, there can result an atmosphere of "peace" pleasing to the public, even though it muffles media and citizen interest despite the high stakes that may be involved?

As one critic puts it concerning his county, "You never learn about what's going on in the budget process until there is a mandatory but token public hearing sometime during the busy Christmas season... which doesn't mean anything because you're told it's too late to change anything because it's so close to the December 31 deadline. Then you realize it's all been decided already. If you had a legislative council, there'd be a way to get issues out in the open to obtain a real public airing."

Doug Hill, executive director of the Pennsylvania State Association of County Commissioners, says the association takes no position one way or the other on home rule or for or against any particular format of government.

He notes from his experience: "If you go to home rule for genuine change, it's OK. But if you turn to it because of political problems, it won't work, because the problems will transcend the system."

Hill believes the most important current effort in the field is rewriting the county code to cover counties from the third through the eighth class. "We are doing it by issue areas, such as by finances first. We are close to finishing writing it on contracts. Next will be human services, with side trips to cover corporate powers."

The real challenge, Hill says, is to sort out the relationships with the state, especially as these vary from issue to issue and program to program. The most headway has come in corrections, especially with sentencing law and sentencing guidelines. The most difficult has been between the counties and the state health department, such as over the division of labor on drug and alcohol programs.

But the major issue still hanging fire is the question of financing the trial court system—the county courts of common pleas. The Pennsylvania Supreme Court in 1987 ordered the state to assume that burden. But the legislature hasn't acted.

Hill says working out the details is difficult. What portion of court fees coming to the county should revert to the state if it takes over the courts? Which offices would be transferred to state jurisdiction? Clerks of courts, tipstaffs, yes. But what about sheriffs and prothonotaries?

The commissioners' association

filed two suits last year trying to force action in the matter. Hill says hope has been fanned by statements by the Commonwealth Court about "contempt of court" and indications the court realizes it either must enforce the decision or modify it. Meanwhile, the counties are watching a similar process taking place in neighboring New Jersey.

This leads into questions of public access and of taxation.

IN ON THE TAKEOFFS, TOO

Talk of governance usually has concentrated on changes within government itself. But in recent years another dimension has been added—that of citizen participation.

One result has been the passage of so-called sunshine laws to mandate that more of the public's business be conducted in public. Law suits, first by neighborhood associations and later by environmental groups, have altered the processes of government, requiring highway departments and municipal governments to provide notice, conduct public hearings, etc., before taking action in an increasing number of situations.

Still, there is a feeling abroad that the public should be in on the "takeoffs," and not just the "crash landings" of destructive, failed, or costly projects.

The Citizens League of Southwestern Pennsylvania in its 1993 report on governance places particular emphasis on this subject, with two specific proposals. It notes:

"Citizen-based efforts to change policy and strengthen governance appear to be difficult to sustain, much less replicate, according to participants. For every successful effort, such as to create a home rule charter for a municipality, numerous unsuccessful efforts were reported in our deliberations. Participants especially cited the lack of technical and financial resources available for creating citizen-based efforts to reform governance and the need for collaborative efforts."

League officials acknowledge that it is hard to attract people to public forums, except for last-minute NIMBY crowds packing a hearing. NIMBY stands for the "not in my back yard" kind of facilities or developments that people don't want in their neighborhoods.

Gale McGloin, executive director of the League, says that in this part of Pennsylvania a problem is that people respect authority too much and don't realize that they can help shape public policy by becoming organized. She contends that the only way a region can solve some of today's complex, cross-cut problems is by soliciting and nurturing public input.

The League therefore has proposed establishing "a resource in the Citizens League for supporting citizen policy change and governance reform efforts."

Second, the League recommends establishing citizen advisory boards in county and major city governments "with the authority to participate in public policy processes from their inception to their conclusion."

The League report notes that such boards were included in the home rule charter for the City of Pittsburgh approved in the 1970s. The city was divided into two dozen districts, with citizens allowed to petition for an advisory board within their district.

Such boards were empowered to (1) review and advise council and mayor on proposed zoning changes, social and physical plans, and distribution of city services within the district; (2) meet annually with the mayor and council to discuss problems; (3) mandate meetings within two weeks with any city department head to discuss a specific district problem.

However, only two advisory boards were created—in Shadyside and in the West End—and both have become relatively inactive. The change for the election of council members from city-wide to by-district may have diminished interest.

However, Citizens League officials believe a major reason why the citizens advisory board concept didn't catch on here was because such boards are forbidden to receive tax support.

A contrast is made with Dayton, Ohio, where similar priority boards have flourished for two decades. As the report outlines, "They receive staff support from city government and have evolved into effective mechanisms for citizen involvement."

WHO'LL PAY THE PIPER?

Government and governance are much more than money, but in the end, there's no evading the importance of money—and therefore taxes. To paraphrase football's Vince Lombardi's aphorism about winning:

"Money isn't everything; money is the only thing."

The problem remains, in the wry words of Timothy Allwein of the Pennsylvania School Boards Association, that "it's tax reform when you move a tax away from me; it's a tax burden when you move it toward me."

In today's Pennsylvania, three efforts are underway:

- A major tax-reform move in the legislature to widen the taxing options for counties, municipalities, and school districts.
- A push for tax-base sharing, modeled on a Minneapolis area plan, which would apportion throughout a region the economic growth in areas experiencing it. The idea, being promoted especially in Southwestern Pennsylvania, is to avoid a dog-eat-dog fight among municipalities for new factories, shopping malls, warehouses, and the like.
- Promotion of a regional assets district plan, a way to spread the tax base for assets such as zoos, sports stadiums, concert halls, and museums provided by a regional center such as Pittsburgh, and by county seat towns in some cases.

Tax Reform

The major current tax reform effort is embodied in Senate Bill 182, known as the Local Government Real Property Tax Relief Act.

1. SB 182 would apply to all counties except Philadelphia, authorizing for them the options of levying certain taxes, including:

- up to 1 percent earned income/net profit tax; or
- up to 1 percent personal income tax; or
- up to 1 percent personal income tax and up to 1 percent sales tax; or
- up to 1 percent earned income/net profit tax and up to 1 percent sales tax; or
- up to 1 percent sales tax.

However a county could NOT levy both the earned income (wage) tax and the personal income tax. Also, under SB 182, a county that imposed taxes under this legislation would be blocked from levying an occupation tax, an occupational privilege tax, a per capita or similar head tax, and the intangible personal property tax.

Any new tax would be subject to a referendum by the voters.

2. The revenue from any one of these county tax options would be split 60 percent to the county and 40 percent to municipalities—but not to school districts (see below for their own revenue package).

3. A major purpose of the proposed tax reform under SB 182 is to reduce and/or eliminate the real property, personal property, occupation, occupation privilege, per capita, and various nuisance taxes over a five year period. To accomplish that purpose the measure would set up at the state level a Local Government Real Property Tax Relief Fund, within the Department of Revenue, to distribute revenues raised from the new taxes.

4. An addition to the original SB 182 would allow school districts (other than Philadelphia's) to levy an earned income tax of up to 1 percent on residents of the district, in addition to any existing authority to levy a wage tax.

BUT revenue from the new tax would have to be used to reduce existing school taxes on a dollar-by-dollar basis. That is aimed particularly at reducing real estate taxes. The measure also would reduce debt limits for all districts except Philadelphia and Pittsburgh from the current ceiling of 250 percent of a district's borrowing base to 50 percent of that base.

Not surprisingly, so complex a measure has raised many questions. Its backers claim it will alleviate the property tax by broadening the tax base, including the possibility of a greater tapping of growth revenues such as wage and personal income levies.

But some critics grumble that its "revenue neutral" provision makes it a Ponzi scheme that doesn't address the fact that many jurisdictions need more money, not just a shifting of the tax burden. Others feel it is an unwarranted bowing to outcries against the property tax; that, contrary to the conventional wisdom, the property tax is a reliable indicator of wealth and, furthermore, provides a stable source that local governments and school boards can count upon from year to year.

Second, some officials are reluctant to lose the present available array of levies, even if some are called "nuisance taxes," until they are sure of how the new taxes would be distributed by the counties. "The power to allocate is the power to withhold," one lobbyist explained. And school districts are bound to be leery of reductions in their debt ceilings.

Third, officials such as DCA Secretary Miller are worried that SB 182 has been "Christmas-treed" with too many goodies tacked on to the original. A particularly bothersome case in point is the addition to the pie-cutting of school districts, with their bottomless pit of revenue needs.

Tax Base Sharing

This system of taxation is aimed at reducing disparities in funding and/or development among municipalities and school districts caused by the uneven distribution of the property tax base.

The model most often cited is that of the Municipal Fiscal Disparities program in the Twin Cities area in Minnesota, providing for the sharing of growth in the commercial-industrial property tax base within a seven-county region. However, there also are tax base sharing programs in California, Michigan, New Jersey, and Texas.

Under the Minnesota plan, each of 300 taxing jurisdictions contributes to an area-wide pool 40 percent of the annual growth of its commercial-industrial (C-I) property tax base, relative to a benchmark 1971 assessment. C-I property includes all businesses, offices, stores, warehouses, factories, gas stations, parking ramps, etc., as well as public utility property and vacant land zoned commercial or industrial.

The 40 percent growth revenue is distributed on the basis of relative fiscal capacity. The distribution index is determined by multiplying a municipality's population by fiscal capacity—market value per capita, adjusted for differing assessment levels among jurisdictions.

From 1975, when the model actually went into operation, the area-wide tax has increased from $16.6 million to $249.7 million.

The argument is that everybody is a winner. Growth municipalities get to keep 60 percent of their taxables increase, but less fortunate municipalities aren't left in the dust.

Tax base sharing programs in Michigan and Texas were established in an attempt to equalize funding between rich and poor school districts. The California and New Jersey programs were launched to address inequities in local redevelopment, in New Jersey's case designed to support development in the Meadowlands area near New York City.

Interest in tax base sharing was aroused in Allegheny County with the advent of the new terminal at Greater Pittsburgh International Airport. It was expected to propel much new commercial and industrial development in the immediately adjacent townships. At a time when the tax base of Mon Valley milltowns was plummeting with the collapse of the steel industry, the idea of sharing revenue growth on a regional basis became quite attractive. (The airport townships such as Moon and Findlay wryly pointed out that in the days of a flourishing steel industry no one suggested sharing Mon Valley tax revenues with their areas!)

Action by the legislature would be required. To date, nothing has happened.

Regional Assets District

The pressure on the citizens of regional centers with dwindling populations, such as Pittsburgh, of the burden of providing tax support for facilities benefiting an entire region has caused a search for alternative solutions. One such idea is that of a regional assets district (RAD).

While no one has entirely spelled out the concept, the idea would be to procure tax revenue from an entire region to support such facilities as zoos, museums, concert halls, and sports stadiums. The rationale is that a regional center such as Pittsburgh—and county seat towns in a parallel sense—no longer can afford to support facilities whose benefits are enjoyed by multitudes of non-residents from throughout the region. (The fact that regional centers have a large amount of tax-exempt property, such as hospitals and institutions of higher education, exacerbates the problem.)

The Allegheny Conference on Community Development, action vehicle for the top corporate leadership of Pittsburgh, has taken the RAD concept as one of its priorities. The Conference is utilizing a concept developed by the Pennsylvania Economy League, whose western division is affiliated with the Conference.

In his 1991 speech outlining the Conference's program for the years ahead, Chairman Sarni noted: "Our region, for example, is blessed with grand old parks, attractive rivers, many libraries, and diverse cultural, scientific, and educational resources. They contribute to the quality of life in this region for all of us—young and old. But now we have no way to integrate them and encourage their development—we have no investment strategy."

The answer, Sarni said, lies in the Economy League study recommending the formation of a regional assets district. "The vision is of an organization with regional leadership, that will use public and private resources to conserve and improve existing parks, libraries, and scientific and educational facilities and have the ability to build new amenities, such as river parks," Sarni explained.

Rick Stafford, executive director for both the Conference and the Economy League, in a recent interview was not afraid to use the dreaded T-word. Stafford said the public must face the fact that whatever tax package evolves to support a regional assets district could not be "revenue neutral," that is, replacing some other tax so as not to cost the taxpayer any more than before.

"Revenue neutral" is the soothing mantra often chanted when tax reform is broached; it was used by Governor Robert Casey in his ill-fated tax-reform referendum in 1989; it is an important aspect of SB 182.

The Stafford assumption is that there's no use trying to fool people that they can get something extra for nothing. Better to be up front from the start and sell the idea on its merits and not by gimmickry.

The Citizens League of Southwestern Pennsylvania in its 1993 report on governance urged this step on the subject:

"We recommend that a citizens committee be established to assist in the development of a regional assets district for Southwestern Pennsylvania.... The district should be supported by a dedicated funding source that equitably collects the tax on the basis of the economic capacity of citizens and their communities.... The impact of the regional assets district could be significant on preserving the region's assets. It would identify those cultural, recreational, historic, and other assets that are critical to the quality of life and economic competitiveness of the region and provide them with a predictable level of financial support."

Just what should be included in the assets to be financially supported is bound to be a sticky question. The Citizens League report suggests:

"The regional assets district should be defined with the full involvement of citizens, so that all assets recommended by citizens in large and small, rich and poor, and urban and rural communities throughout Southwestern Pennsylvania are considered for inclusion."

Politically, something like this may be necessary to build sufficient support throughout the region to be persuasive to legislators who will face the cry not only of more taxes but of a new layer of taxes. But, organizationally, it could spawn a nightmare in deciding whether every little historical museum or riverside park or sports stadium should be included as a "regional asset."

At the least, that approach would dilute the revenues available for what even those who are not Pittsburgh chauvinists would acknowledge to be truly regional facilities, most of which are located within the city limits of Pittsburgh.

COMMENTS

It should be obvious from this *Issues* paper that there are serious governance problems in Pennsylvania and, in particular, Southwestern Pennsylvania. Even those most comfortable with the status quo are troubled by mandates from higher levels of government, bucking up against levy limits as well as limitations on types of taxes that can be imposed.

Equally plain is that there is a plethora of suggested solutions from experiences here and in other states, not to mention local surveys and plans.

What is lacking is the will to make changes, and especially on the part of the state legislature, where the responsibility and power lie for instituting most major alterations in the governance landscape.

The greatest barrier to action is self-interest. How does one appeal to communities and groups to "fix something that ain't broke" for them? How to convince people that the weak links do make a difference in the overall strength of the chain?

It is here that the proposals by such groups as the Allegheny Conference on Community Development and the Citizens League of Southwestern Pennsylvania are so important. For they appear to be the best hope for both appealing to the "better angel" self-interest instincts of many citizens and groups and for thereby offsetting the resistant self-interest of others.

The Allegheny Conference is vital because it can command many resources, including the message from corporate executives that governance is important—as Vincent Sarni so tellingly made clear. The Pittsburgh region is fortunate, too, in that so many corporate headquarters are located here. Neal Peirce in his new book "Citistates" outlines how even strong cities such as Phoenix are hampered because they have only corporate branch offices—the real decisions are made in headquarters elsewhere.

On the other hand, there is a limit to what a group of two dozen men, no matter how powerful, can do by themselves in arousing citizen support for change. It is here that the Conference will need to reach out through the political parties and, yes, organized labor, and through such grassroots groups as the Citizens League. The League, for instance, could be a significant vehicle for attracting the support throughout the region from people in many walks of life that impresses politicians.

It should be remembered that the League was formed in the late 1980s with the quiet backing of Robert Pease and David Bergholz of the Allegheny Conference staff leadership. But it has not had the corporate or foundation support since then to lift it above a somewhat fledgling status.

The fate of governance efforts may depend upon whether there can be a melding of the efforts of the corporate leadership and community groups such as the Citizens League. Both have far-reaching goals that need to be sharpened into specifics, a process where each can help the other. (In fact, most of the goals documents produced by various groups to date cover such a wide range of objectives as to intimidate action. Rather than setting a reasonably persuasive number of priorities, they usually recommend setting up another committee to do just that.)

There will need to be more leadership of the kind being exhibited by Rick Stafford, executive director of the Conference, when he bucks the conventional wisdom to say that some of the needed tax reforms cannot be "revenue neutral." In effect, he is saying that the people won't and shouldn't be fooled into thinking that they can have a free lunch in terms of meeting some of the needs of the region.

Clearly something needs to be done about the school financing situation. This writer's hunch is that the answer eventually will be something like the latest Texas "options" plan—setting forth ways in which a prescribed number of the wealthiest districts can choose to share their bounty, money, and/or instructional assets with poorer districts.

As for municipalities, the longer this writer has surveyed the scene, the more he is convinced that Professor Christine Altenburger of the University of Pittsburgh is correct—that we might as well not waste major efforts toward merging them. One exception: Greater powers should be given to the counties to approve developments with impacts beyond a single municipality. That is one place where the present zoning hodgepodge is harmful in encouraging costly sprawl and ecological damage, as well as inhibiting the regional approach necessary to compete in today's global environment.

Energy, instead, should be spent on promoting inter-municipal cooperation and pushing standards for governmental operations to improve the services provided to taxpayers. In turn, municipal associations should respond more affirmatively to these reforms.

If this particular element of self-interest is left undisturbed, perhaps boundary-conscious citizens can relax and be more easily persuaded that it is in their self-interest to:

- Keep Pittsburgh a strong regional center by finding ways to spreading the burden for financing regional facilities now resting on just 400,000 citizens out of three million in the region.

- Find ways to insure a proper education for each child, no matter where he or she lives in the region. After all, experience shows that many of the best educated products of our system will leave the region for jobs elsewhere. It is the "left-behinds" who either will be trained to be productive citizens or run the risk of adding to the welfare or crime statistics, to the detriment of the region's future.

- Seek solutions through the political and legislative process, rather than waiting for equity lawsuits that put the matter in the hands of the courts. The state legislature might prefer to have its hand forced, with "Robin Hood" plans as one eventuality, but it's doubtful most citizens, school boards, and municipalities would find that to be in their real self-interest.

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