

POLICY BRIEF

An electronic publication of
The Allegheny Institute for Public Policy

August 23, 2010

Volume 10, Number 45

Time to Fix the Gaping Hole in Allegheny County's Oath of Office

The Mayor of Pittsburgh, members of Pittsburgh City Council, and all City appointees do it; so too do the members of Allegheny County's personnel board; county officials in Erie County also do it; but whether deliberate or because of an oversight, the Allegheny County Executive and members of County Council do not.

What are these officials doing that County officials are not? Simply put, it is explicitly pledging in their oath of office to uphold and defend the Home Rule Charter. While it is reasonable to assume that County officials would be bound to obey and defend the Charter, their oath does not require them to swear or affirm that will obey the Charter. Allegheny County's Home Rule Charter does not mention the language to be used in the oath of office.

As our most recent *Policy Brief* noted, the County Charter's provision requiring a quadrennial Sunset Review has been ignored by elected officials. Likewise, Charter language limiting Council's placing of referendum questions on the ballot to issues involving Charter changes was blatantly flouted by the County Council. Could these actions reflect the absence of an explicit oath pledge to protect, obey and defend the Charter, or merely disrespect for the Charter?

The language in the oath taken by elected Allegheny County officials comes from the Pennsylvania Constitution, Article VI, Section 3 and is the same as the oath taken by members of the General Assembly, members of the judiciary, and state and elected officials in many other counties. By taking the oath an official pledges to execute the duties of his/her office and to "preserve, protect, defend and obey the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania".

Important words indeed, and to be sure the County's home rule status was secured from the laws and Constitution of Pennsylvania. However, there is no explicit language requiring the Executive or the Council to pledge fidelity to the Charter, which serves as the constitution for the County. Article IX of the Pennsylvania Constitution includes the provisions that allow for the framing of home rule by counties and municipalities. Under home rule, counties are given the authority to enact laws as they see fit as long as they do not violate the conditions specified for home rule communities and do not conflict with state law or the Pennsylvania Constitution. Presumably that means the Charter and/or the Administrative Code could include oath language requiring a vow to obey the provisions of the Charter.

The oath taken by the Personnel Board, also found in the Administrative Code (5-1005.04), requires members to "preserve, protect, defend and obey the Constitution of the United States of America and the Constitution and the laws of the Commonwealth of Pennsylvania and the Allegheny County Home Rule Charter". In the neighboring City-County building on Grant Street

all elected and appointed City officials swear upon taking office that they will support the U.S. Constitution, the Pennsylvania Constitution, and “the charter of this City” which has been a home rule community since 1974. And in the northwestern Pennsylvania home rule County of Erie officials “support, obey, and defend...the Charter of the County of Erie”. Thus there is a longstanding precedent for home rule counties to include the charter in their oath of office.

Allegheny County officials should act immediately to make obedience to the Charter an explicit oath requirement with sanctions that attend such an oath rather than merely an implied, non-enforceable duty. It would be a relatively simple process to effect such a change. Council could simply amend Administrative Code at 5-301.07 for itself and 5-401.06 for the Executive to include language requiring obedience to the Charter.

And if officials want to make the Code change unassailable by a future Council, they should place a referendum question on the next general election ballot asking voters whether the Charter should be amended to include a new oath of office for all elected and appointed officials. The new Charter specified oath would read:

“I _____ do solemnly swear (or affirm) that I will faithfully execute the office of _____ and will, to the best of my ability, preserve, protect, defend, and obey the Constitution of the United States, the Constitution and laws of the Commonwealth of Pennsylvania, and the Home Rule Charter of Allegheny County”

What better way to begin the second decade of Home Rule in Allegheny County than to ensure that its elected officials pledge to begin their term of office by publicly vowing in loud and clear language they will uphold the Home Rule Charter? What possible objection could any current elected official have to making this important change?

Jake Haulk, Ph.D., President

Eric Montarti, Senior Policy Analyst

*Policy Briefs may be reprinted as long as proper attribution is given.
For more information about this and other topics, please visit our website:
www.alleghenyinstitute.org*

<p>Allegheny Institute for Public Policy 305 Mt. Lebanon Blvd.* Suite 208* Pittsburgh PA 15234 Phone (412) 440-0079 * Fax (412) 440-0085 E-mail: aipp@alleghenyinstitute.org</p>
