

# ***POLICY BRIEF***

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## **Improving Home Rule in Allegheny County as the Second Decade Begins**

As home rule government begins its second decade in Allegheny County—the effective date of the Home Rule Charter was January 1, 2000—taxpayers and residents of the County have several big issues coming at them related to their government. A countywide property reassessment to be completed for use in 2012 and the wobbly future of the County’s mass transit system must rank at the top of the issues list. The drink tax, further row office reform, and economic vitality are very important as well. On the other hand, all the happy talk of a merger between the County and the City of Pittsburgh is rapidly fading into the dustbin of ambitious but poorly thought out ideas.

Another issue that ought to get a lot of attention—but does not—relates to the steps that could be taken by County Council, the General Assembly, and the voters of the County to improve upon the Home Rule Charter and its effectiveness. There are likely many ideas that could be explored, but we focus on three that could go a long way toward making Allegheny County government more responsible and responsive to the people of the County than it has been. Two will require action by the General Assembly.

***First, revise the oath of office taken by the Executive and members of Council.*** As we pointed out in a previous *Policy Brief* (Volume 10, Number 45) the Chief Executive and the Council members take an oath of office prescribed by the state Constitution for County officials. An oath that was developed prior to home rule being available to counties. That oath does not require office holders to swear or affirm they will protect, defend and obey the County’s Home Rule Charter.

However, there are examples from another home rule county, the County’s personnel board, and the City of Pittsburgh wherein the oath of office includes language requiring elected officials to swear or affirm they will obey the provisions of their home rule charter. It seems logical that the oath of office for Allegheny County’s elected officials should include obedience to the Charter.

County Council can take action quickly to change the language in the Administrative Code. And, in order to make sure some future Council does not change the oath back to the present language, Council should put the new oath on the ballot so voters can approve its inclusion in the Charter. Once in the Charter, getting it changed back would be extremely difficult. Whether the current oath language omitting any reference to the Charter was deliberate or an oversight, changing the oath now corrects this important missing piece of home rule.

***Second, the General Assembly should adopt statutory language requiring any and all new County taxes and tax increases to be voted on in a referendum.*** Who has the power to control tax rates in a home rule community? Through an eye-opening series of court rulings regarding efforts by voters to reduce substantially the drink tax we now know that state law as interpreted by the courts gives the governing body—the County Council in this case—sole power to set tax rates and cannot be restricted in that power by initiative and referendum. To be sure, there are tax limitations written into the Charter on property, hotel, and sales taxes and the Charter requires a super-majority vote of Council for increases to property taxes, all of which make the situation more confusing. Especially since the voters had to approve the Charter and its provisions before it went into effect as the County's constitution.

In a home rule community, the citizens should have the ultimate control over the government's power to tax. That is why we have argued (*Policy Briefs Volume 8, Number 65 and Volume 9, Number 61*) the General Assembly should act to change the language in the home rule law to require a voter referendum to approve all new taxes or increases to existing taxes. Council would have to place all new taxes or tax increases on the ballot. If this law had been in place in 2007, the drink and car rental taxes authorized under Act 44 would have gone to the voters for approval and the County could have possibly avoided the subsequent petition drive and Council's ill-advised and illegal referendum questions involving the drink tax.

***Third, the General Assembly should enact specific implementable punitive measures for the officials who callously disregard or violate the Charter's provisions and their oath to defend and obey the Charter.*** Lastly, touching upon the previous point about Council's illegal referendum question (the Charter states that referenda questions prompted by ordinance must deal solely with amendments to the Charter, which its drink tax question did not do) it is worthwhile for voters to think seriously about what to do when there are such deliberate and cynical violations of the County's constitution.

In *Policy Brief Volume 8, Number 55* we illustrated a disturbing trend in which the County saw several of its actions end up in the courts and losing. There are many examples of this behavior: passing a smoking ban when state law was clear such an action was illegal and the County's solicitor had advised against such an action; crafting various plans aimed at avoiding a reassessment and ignoring clear instructions from a judge; failure to complete a quadrennial Charter-mandated sunset review of departments; and attempting to use drink tax revenue for purposes other than funding mass transit as explicitly laid out in state law. This list of ignoring or flouting the Charter and the law calls into question whether elected officials consider themselves to be above the law and not bound by their oath of office. What could be more destructive of public confidence in government than highhanded disregard for the law and their oath by elected officials?

At least one recent proposal has been offered by a Councilman that would link timely completion of the sunset review to approval of appointees as a way of sanctioning failure of elected officials to carry out Charter prescribed duties. A start possibly, but hardly the answer.

It has become increasingly clear that unless there is some type of meaningful punitive response to overstepping or ignoring the Charter and state laws, the pattern of official abuse will continue and inevitably get worse.

The time has come for the Council and the General Assembly to step up and do the right thing for the citizens of Allegheny County. Make sure elected officials pledge fealty to the County's constitution, give voters authority over taxes, and provide for sanctions for officials who ignore

the Charter and the law. These steps would go a long way toward producing the kind of government the Charter's drafters and voters thought they were getting back in 2000.

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