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October 24, 2011

Honorable Jane Earl, Chair
Pa Senate Community, Economic and Recreational Development
Room 177
Main Capitol Building
Harrisburg, Pa 17120-3049

Honorable John Eichelberger, Jr., Chair
Senate Local Government Committee
Room 460
Main Capitol Building
Harrisburg, PA 17120-3030

Honorable Tom Creighton, Chair
House Local Government Committee
416 Irvis Office Building
Harrisburg, PA 17120-3030

Honorable L. Chris Ross, Chair
House Urban Affairs Committee
110 Ryan Office Building
Harrisburg, Pa 17120-2158

Re: Upcoming Joint Hearings on Act 47

Dear Senate and House Chairs:

Given my involvement with the City of Harrisburg, I have often been asked about my thoughts on Act 47, Pennsylvania's "Financially Distressed Municipalities Act". Not knowing whether my views would be sought by you, I thought that I might set them forth in this written testimony for consideration at your upcoming hearings.

I note with pride my affiliation with two giants in terms of legislative leadership with whom I had the privilege of working: K. Leroy Irvis and Matthew J. Ryan, both of whom have office buildings named for them, in some cases buildings housing some of your offices.

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I was privileged to have K. Leroy Irvis as a mentor; working with him summers from 1969 through 1975 and then officially in 1975 and 1976 as his legislative assistant and Executive Director of the House Rules Committee. Since then we interacted in a number of matters up until his death several years ago. Matthew Ryan was the Republican leader when I worked for Mr. Irvis. Later, as a lawyer I had adversary, but always amicable dealings with Mr. Ryan. We were friends.

Suffice it to say that when I was active in Harrisburg in the mid seventies and 1980s, things were accomplished on a much more bi-partisan basis. Both men worked well together. Moreover, I was honored to have the trust and confidence of Republicans and Democrats when it came to my judgment and advocacy. For example, as a Democrat, I considered it a privilege to have been hired by the Thornburgh administration to do a workout of a troubled state bond project that needed to be restructured.

I always considered K. Leroy Irvis not only a legislative leader, but a legislative craftsman. Since working for him I have had an interesting career in law, public finance and now in my own trial practice. I must say that the present-day General Assembly varies significantly from what I remember. All too often, I am disappointed in what is an inattention to detail or substance when it comes to legislation. Act 47 and other legislation pertaining to municipalities and counties are cases in point; namely mandates without money.

As we have seen from polls this past summer detailing Congress' low popular regard and the rating agency downgrade of the U.S. debt that was based on a negative view of the gridlock of America's legislative process, all too often public bodies are short on substance and long on process. Fundamentally, Act 47 is about process and little else. It is about municipalities being designated distressed and about coordinators being paid to come up with a plan. I've called it the "full employment act for consultants." This is the only assistance, such as it is, being more about political patronage payments and less about substantive help. For instance, the Act 47 study for Harrisburg cost approximately \$900,000 and was substantively lacking when it came to specifying precise dollars to pay outstanding obligations. Questions abound about political machinations and pressures the consultants were subject to and the fact that some would not "bless" the numbers that were insisted upon after the Governor's office rejected a solution in the form of a 1% increase in the sales tax.

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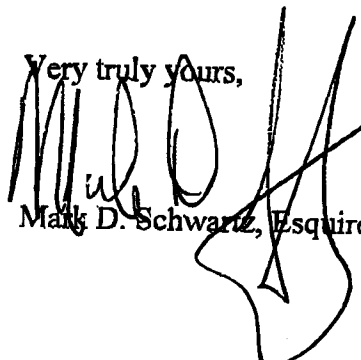
More importantly, under Act 47, the Commonwealth does virtually nothing to actually assist or provide financial incentives to municipalities in financial distress. Contrast this with the billions that have been spent by the Governor's office over the last 9 years in the suspect name of "economic development". Despite criticizing the practice Governor Corbett has kept up this charade. For instance, last Wednesday, the Governor gave \$11.5 million dollars to a highly profitable investment bank hardly in need of subsidy. The next day, he signed an unprecedented and legally dubious takeover bill announcing that he remains "a strong proponent for municipal governments tackling their own problems." Maybe Pennsylvania's cities and towns would do well to reorganize as investment banks.

Being a "distressed municipality" for a decade or more says less about the municipality and more about the lack of fiscal incentives. The fact is that being labeled financially distressed in Pennsylvania is like checking into the Bates' Motel. One almost never leaves. The exceptions are notable. Philadelphia managed to bypass Act 47 in 1991. Philadelphia's financial problems were solved through a separate act that provided for an oversight authority with a dedicated revenue source in the form of an increased sales tax. Backed by the new revenue source, bonds were issued by the authority to take out Philadelphia's debt. Magic.....crisis over. This should have been the model for Harrisburg. Apparently the Governor rejected that.

As you ponder the future of Act 47, kindly ponder the fact that despite a special session of the legislature dedicated to tax reform approximately thirty years ago, Pennsylvania has never done anything to bring its municipalities out of the dark ages and away from reliance on the regressive property tax system. Harrisburg has plenty of company across the Commonwealth, cities and towns larger and smaller, which remain shackled to the property tax when industry has gone away, property values have declined, tax-exempt properties have increased and the population has aged.

If the General Assembly wishes to do something other than posture when it comes to Pennsylvania's distressed cities and towns, then it has to address the need for local tax reform. Otherwise it is all more of the same..... form over substance.

Very truly yours,



Mark D. Schwartz, Esquire