



Testimony on Proposed Charter Amendments

Bill Nos. 100121, 100123, 100139, 100140

Philadelphia City Council

Committee on Law and Government

March 15, 2010

I am Zack Stalberg, president of the non-partisan Committee of Seventy. I am here to testify on two proposed amendments to the Home Rule Charter.

The Committee of Seventy has been fighting for clean government and fair elections for more than a century. We were the earliest and most strident defender of the city's campaign finance ordinance. We also have been the most dogged advocate for tight, enforceable ethics laws and for closing loopholes that breed abuse, corruption and distrust of local government.

In 2007, Seventy asked the candidates for mayor and City Council to sign on to Ethics Agendas that would help make City Hall more honest and accountable. Mayor Nutter fulfilled a pledge made in response to the Agenda to create a Task Force on Ethics and Campaign Finance Reform. Our comprehensive recommendations are available on www.seventy.org.

Seventy's recommendations address many of the issues dealt with in the package of bills currently under consideration – and many other important issues. We have proposed numerous ways to strengthen the campaign finance law, including regulating the efforts of organizations that mount personal and racially motivated ad campaigns against individual candidates.

Seventy has spoken out on the need for Philadelphia to lose its distinction as the largest city in the nation without any law regulating lobbyists or their expenditures. We have urged the adoption of a clear policy for accepting gifts that extends to all city employees and is not subject to individual interpretation. Seventy has also called for laws regulating nepotism, anti-

fraternization and second jobs, and for enacting stricter controls on the relationship between public officials and non-profit organizations.

Seventy does not see eye-to-eye with the Task Force on every issue, but we are pleased that most of our recommendations made their way into its final report, which the mayor accepted last December without significant response.

The Task Force bluntly stated: “A report without action is worthless.” The proposals introduced in Council by Majority Leader Tasco and almost all other Council members represent an important first step. This sends a strong message to the citizens of Philadelphia.

We look forward to participating in Council hearings on a broad spectrum of reforms. It’s good to see that the process is finally underway. At the same time, we believe that passion for reform – whether ours or yours – can not override the importance of deliberate decision-making.

Today, we will confine our testimony to the ballot questions because they are the declared subject of the hearing.

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The Committee of Seventy urges City Council to defer action on the proposed Charter amendment dealing with the Inspector General.

To be clear, Seventy supports a Charter-sanctioned and independent Inspector General with jurisdiction over the entire city government. The pending legislation would preclude the Inspector General from investigating the legislative branch. But wrongdoing can and has happened throughout city government.

More importantly, tabling the proposed Charter amendment would give Council an opportunity to help clarify the responsibilities among the various public officials charged with monitoring

government integrity. Council has properly questioned the roles and costs of these official watchdogs on several occasions.

Seventy, too, has raised the need to define the division of responsibilities among the Board of Ethics, the Inspector General, the Chief Integrity Officer, the City Controller and the District Attorney. We broached this for the first time in our June 2007 testimony on a proposed Charter amendment to create an independent Inspector General.

The confusion is not unfounded. Both the City Controller and the Inspector General have investigated violations of the city's residency requirement. The newly-elected District Attorney has promised to create a task force to root out municipal corruption, which is also the job of the current Inspector General within the executive and administrative branch.

Given the economic necessity for all entities in city government to function most efficiently, it is important to ensure that there is no duplication of efforts or waste of taxpayer dollars. It is also essential that the public, including whistleblowers, knows precisely which office to turn to.

The pending legislation essentially reflects the powers and duties of the Inspector General as they currently exist. There is no compelling reason to rush to place the Inspector General question on the May 18, 2010 ballot.

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The Committee of Seventy opposes the proposed Charter change dealing with political activities. We would favor altered language that would amend the Charter's current rules by giving city employees greater freedom of expression.

As the ballot question is now worded, it does not provide adequate information to allow the public to cast a meaningful vote.

The intent of some ballot questions is clear on their face. For example, asking the voters in November 2007 to approve a Charter amendment requiring district council members to reside in their districts for at least one year prior to their election was straightforward. However, that is not the case in this situation where understanding the ballot question is impossible without knowing what will be contained in the final companion ordinance.

While we do have reservations about the companion ordinance as it now stands, because it would allow city employees to be directly involved in the political system, we do not believe the current political activity rules should be left alone.

Many of the rules are unclear, incapable of being enforced and, in some cases, so broad as to be counterproductive.

We strongly support giving city employees more constitutional freedom of expression than they have under the current rules, which have been interpreted to prohibit wearing political buttons outside of work, posting residential lawn signs or writing letters to the editor as a private citizen. We seriously question the legality of banning members of the Philadelphia Police Department from making voluntary campaign contributions. We have opposed the Board of Ethics' decision to impose the same rules on some volunteer members of Boards and Commissions as on full-time city workers.

But extreme caution should be exercised before fundamentally changing rules intended to insulate the city's workforce from political influence to the greatest extent possible – one of guiding principles of the 1951 Home Rule Charter – by permitting them to serve as ward leaders or committee people, or to manage a political party or campaign. The Bonusgate scandal in Harrisburg shows that the Charter's concerns are very real. It is easy to see how the line between on and off the job activities becomes blurred.

All of these issues – as well as others that are contained in the Home Rule Charter or interpreted by the Law Department or the Board of Ethics, or recommended by Seventy, the Task Force and

others – deserve a thorough examination. Our preference is not to do this in haste to meet the deadline for inclusion on the May 18th ballot.

If Council decides to move ahead with the proposed Charter amendment, we urge an immediate, open and fair-minded public hearing focused solely on political activity and expression. The voters have the right to know precisely what they are voting for.

This, of course, takes us to the foundation upon which our viewpoint is based.

When adopting the City Charter – Philadelphia’s governing document – voters decided to restrict political activity by city workers because of rampant abuses. Voters must still have the fundamental right to weigh in on specific changes in political activity rules that City Hall – at any point in the future – might desire.

The Charter amendment process is purposefully intended to be deliberative. It gives the voters a voice in matters that are significant enough to be included in the Home Rule Charter.

If this Council feels the need to alter political activity rules, it does not need the authority it seeks in the proposed ballot question.

As it has done on many occasions, Council can introduce and seek voter approval for proposed Charter amendments on specific provisions.

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There is a great deal left to do. We urge Council to carefully consider for future legislation additional proposals that will result in greater transparency, accountability and honesty across city government.

For example, if the proposed ballot question on the Inspector General is deferred as we suggest, the whistleblower protection provision contained in the companion ordinance should be

separately enacted so that no city employee faces retaliation or punishment for providing truthful information about unethical or illegal behavior.

Honest government is not just a *nice* goal.

It is essential to Philadelphia's efforts to attract businesses, jobs and residents. We look to this Council to provide leadership on this issue.

Thank you.