



# Pierce County

## Office of the County Executive

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Bertie Enslow, Chair  
Pierce County Charter Review Commission  
c/o Pierce County Council  
930 Tacoma Avenue So., Room 737  
Tacoma, WA 98402

Dear Chair Enslow:

Please find attached my comments to the list of proposed amendments to the Pierce County Charter which I understand to be under consideration for placement on the November 2006 ballot. As you will see, I am conservative when it comes to changing the Charter. I believe it has served the citizens of Pierce County well over the twenty five years of its existence. Pierce County is a prosperous, dynamic and growing community. I am convinced the stability, professionalism and integrity which our government has come to be known for have played a large role in the county's good fortune. The Charter has provided the framework for all this to occur. It does not require, nor do I believe the citizens will benefit from, substantial change. That view as well as the reasons conveyed herein account for my objections to many of these provisions.

This does not mean however, that I do not appreciate the months of hard work that you have selflessly devoted to the citizens of the county in this endeavor. I know that each of you have given your time and energy in a genuine effort to make county government better for the citizens and on behalf of all of them I want to thank you for your service.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Ladenburg".

John W. Ladenburg  
Pierce County Executive

cc: Charter Review Members

#1 Election of Sheriff

Since the adoption of the Charter in 1980, Pierce County has grown into a populous, diverse, flourishing and economically dynamic urban community. During the same period, under the leadership of its appointed sheriffs, the Sheriff's Department has developed into a modern, highly professional law enforcement organization to meet the demands of our urbanizing population. From the Sheriff down through the ranks, positions are acquired on the basis of merit, skill, training, experience and dedication. No one holds a position on the basis of political loyalties or affiliation. Converting the Sheriff to an elected official risks reversing much of what has been achieved since the days of scandal in the department.

In addition, the citizens will lose accountability by having an elected sheriff. The only accountability for an elected sheriff occurs every four years at the ballot box and then it is all or nothing. The incumbent either keeps the office or is removed completely. However an appointed sheriff has instant accountability. The executive can remove the sitting sheriff from office immediately for conduct which merits it. But the executive can also tailor a response to fit the circumstances where an otherwise well performing sheriff has performed below expectations. Both the immediacy and flexibility of the executive's response are lost with the conversion to an elected sheriff.

#### #2S Term Limits

Term limits have the effect of limiting the voters' choices and on that basis I oppose them in general. However, given the term limits which currently exist in the Charter, there is no basis for altering them to create an imbalance which serves nothing more than to further erode the delicate and immensely important balance of power which currently exists between the legislative and executive branches of county government. This provision gives council members an additional term, leaves in place the two term limit for the Executive and removes limits for other offices. There is no apparent need or reason for the disparity.

#### #3S (1) Partisan Non-Partisan

I defer to the analysis provided to the Commission on this proposal by the Pierce County Prosecuting Attorney.

#### #4a(2) GAO Function

No comment.

#### #4S(2) Citizen's Oversight Board

This proposal is an unfortunate example of fixing what is not broken at excessive cost to the taxpayers. There are many state, county and even federal laws and regulations which circumscribe unacceptable conduct of county employees and officers. Each of these laws has at least one corresponding enforcement agency to investigate, adjudicate and punish wrongful conduct. There is no need for this body. It is merely be duplicative of what already exists.

The costs will include a staff for the Board, office space and a hearing room, either salary or per diem for the members who apparently meet year round, elections of the members, insurance and internal administrative services from other county departments. Estimates from county departments are that these costs could run as high as \$2,700,000 annually. I fail to find a

commensurate benefit achieved by this proposal.

But perhaps the most significant cost will be workplace disruption when any individual, regardless of motivation or merit, can file a complaint and thereby trigger a series of investigative intrusions into the workplace as the employee(s) complained of and his/her co-workers are interviewed, required to make reports and then appear at hearings or meetings. All the while the employee's manager stands helplessly by while this Board, which is accountable to no one, takes over the job site for its own purposes.

#### #5S (1) Instant Run Off Voting

Based on the experiences of other states which have implemented this form of voting, two probable consequences of adoption of this proposal emerge: it will be enormously expensive and it will have virtually no effect on the outcomes of elections. It is estimated by the county's elections officials who are familiar with the use of this method in other states that the costs to do so in Pierce County would be about \$2,500,000 per election. But in some states which have done trial tests of this method, it was discovered that it did not change the outcome from the traditional method. Not to mention that since it would only be employed in elections for certain county offices, it would likely engender a great deal of confusion and frustration for voters who would have to fill out two different types of ballots. For these reasons I oppose this measure.

#### #6a Initiative

I oppose this measure and the one immediately following. By reducing the requirements for access to the ballot, these provisions facilitate special interest groups and Eymanesque initiative factories who clutter the ballot with provisions which are too numerous and often too confusing for the average citizen to sort out and make an intelligent choice. Even worse, these special interest groups may use easy access to the ballot to promote their own interests, creating very bad public policy in the process. Access to the ballot should be reserved for serious, well thought out, well crafted measures, designed to advance good public policy and which have at least the support of enough citizens to suggest that they are worth consideration by the general electorate.

#### #6b Referendum

See #6a.

#### #7S Budget Process

It is apparent that the 75 days budget presentation provision was put into the Charter for two reasons, which are still valid today. First, the later in the year the budget numbers are submitted, the more accurate they will be. The budget staff simply has a better read on such items as revenue patterns and likely next year expenses (gasoline, medical and dental premiums, labor contract implications) later in the year rather than earlier.

Second, the property tax figure doesn't get finalized until the end of September which would be after the 100 days now under consideration. Property taxes are the largest source of General Fund revenues, and without an accurate number in the proposed budget, the budget is inaccurate as presented. If more time is needed by the Council (and I'm not convinced that is necessary), I would recommend that the approval date be moved from December 1 to December 8 and leave the 75 days requirement in place. In reality that gives the Council 2 more weeks because the Council

has, on average, approved the budget 7 days prior to the current December 1<sup>st</sup> requirement.

#7b Appointments (2.55)

No comment

#9a Balance of Power

This is another provision which dangerously alters the balance of power between the executive and legislative branches. (See comments to Proposal #2S.) The fundamental principle of executive appointment with legislative confirmation has existed in the American form of government since the adoption of the U. S. Constitution in 1789. It has been duplicated in nearly every state constitution, including our own and is taught to every school child as one of the important “checks and balances” which make our system of government so successful. This Proposal effectively abolishes the principle for those matters to which it applies. Even more radically, it does not transfer the executive’s appointment authority to the legislative body, but to a single member. It is mere window dressing, and meaningless to confer appointment authority to the executive with limitations such as these.

#9S (1) Balance of Power

As I mentioned in my comments to proposal 4a(2), the county has rigorous performance audit program which subjects every department and program to intense scrutiny by highly qualified, independent experts in the relevant field or discipline being examined. While costly, it has proven effective. It is also open and transparent with meetings and reports readily available to the public. That program is in addition to many other ongoing efforts by the departments, executive and council to improve service and efficiency. Inherent in the annual budget is a review by both the executive and the council of each department’s performance during the preceding year and scrutiny of its request for the upcoming year. Department heads must justify, on the basis of past results and future budget goals and measures, each year’s request for funds. In order to meet performance expectations, the county’s managers continually renew their knowledge of best practices as developed and tested in institutions and jurisdictions throughout the nation. And our departments win many state and national awards each year for their own innovation and excellence.

Given the many hours our workforce spends in pursuing improvement and responding to performance audit demands, this proposal adds little in the way of public benefit and has the effect of taking employees away from their work to produce more reports. This proposal contains good ideas, but they are duplicative of what exists and unnecessary.

#9b (1) Balance of Power

To be an effective and cost efficient organization we need to have a consistent approach to such functions as: staff hiring and compensation, payroll system requirements, union contract negotiations, medical and dental plan negotiations, budget preparation and review, budgetary prioritization, risk management and insurance policies, purchasing and payment guidelines, compliance with Federal and State requirements, information technology, facilities assignment and maintenance, accounting system, travel guidelines, etc. It is also necessary in many cases for

departments to share information and jointly address problems or tasks. There is no way to ensure such efficient coordination and cooperation without the ability of the Executive to direct that it shall be so.

This proposed change may eliminate all the positive cooperative and collaborative aspects of the existing Charter which provide for the integration and efficiencies describe above. The executive needs to have the necessary authority to guarantee cohesion and consistency in administrative matters. When authority becomes too diffuse, then no one is able to accomplish results and no one is accountable for the failure.

#### #16S Eminent Domain

This provision is a completely unnecessary (and likely illegal) restatement of the law of eminent domain in the State of Washington which is replete with protections against its abuse. The state constitution prohibits the governmental taking of private property for private use. State statutes require that a taking of private property even for governmental use must be judicially determined to be for a legitimate public use, and fair value as determined by a jury must be paid. It also should be recognized that nearly every instance of the use of eminent domain by the county has a direct or indirect economic development effect.

Suppose the county condemns property expecting to put it to use for the “general economic improvement” and then over time finds that such use is not viable and the property is therefore surplus to the county’s needs. The best option for the taxpayers at that point would be to sell the property for the highest price it could get, but this provision would prohibit that. In fact it could be construed to require the county to give it back to the original owner.

The most likely result, however is that the courts would find that in light of the extensive state law on the subject, this provision is unenforceable. In any event, its potential to confuse the law while failing to achieve any additional protection for property owners as it purports to do, suggests that it should not be placed on the ballot.

#### #20 Resign to Run

This is another proposal which I oppose for the reason that it limits voter choice. The implicit assumption underlying the measure appears to be that an individual holding an office cannot perform the functions of the office while campaigning for another. There are those who probably cannot and those who probably can. I believe the voters are capable of sorting that out for themselves on a case by case basis.

An additional problem is that this measure may well be unconstitutional and if adopted would almost certainly lead to costly litigation to get a judicial determination of the question.