FORUM ON THE MILWAUKEE NONPROFIT SECTOR
Convened by the Helen Bader Institute for Nonprofit Management
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and
the Marquette Legal Initiative for Nonprofit Corporations,
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Nonprofits and Property Tax Exemption

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June 8, 2010
Nonprofit Property Tax Exemption and Municipal Finance: Framing the Issues and Choices

Kevin Kearns
Graduate School of Public and International Affairs
University of Pittsburgh
Framing the Issue of Nonprofit Property Tax Exemptions

• Legal / Historical Considerations
• Financial Considerations
• Public Accountability and Ethical Considerations
• Public Perception
• Politics
What Is At Stake?

For Taxing Bodies

• Legal: Frontal assault or attack the flanks?
• Financial: For some this is very significant, but not for most
• Intergovernmental relations: Vertical and horizontal
• Long-term considerations: Delaying the inevitable?
• Accountability for operations

For Nonprofits

• Legal: “Slippery Slope”
• Financial: Substantial, but there could be trade-offs
• Accountability: SORI
• Public Image: Significant
• Division in the ranks: Donative versus Commercial Nonprofits
Beneath the Debate
Evelyn Brody “Introduction” Property Tax Exemption for Charities, 2002

• Nonprofit property tax exemptions may constitute small portion of total exempt property (Largest portion is government owned property)
• PILOTs are sporadic and generate relatively little revenue
• Press treats the nonprofit exemption as front page news – out of proportion to its impact?
Nonprofit / Municipal Relations

Lessons from Pittsburgh?
Pittsburgh Skyline at Night

- Forbes “Most Livable City” April, 2010

  - Income Growth Rank: 20
  - Low Cost of Living Rank: 52
  - Arts & Leisure Rank: 26
  - Low Unemployment Rank: 73
  - Low Crime Rank: 15

- The Economist
  - Most livable city in the US
  - 29th Worldwide
Frick Park, Pittsburgh

- Tremendous investments in green space, riverfront, bike paths and other outdoor attractions

- Much of the investment from foundations, other charitable organizations
David Lawrence Convention Center
First LEED Certified Convention Center in North America: Site of 2009 G 20 Summit
On the Other Hand ...

• Declared “Fiscally Distressed” under Act 47 in 2005
  – Under financial oversight by five directors appointed by Legislature and Governor
• Antiquated system of local government
  – 130 municipalities in Allegheny County, Only Cooke County, IL has more
• Aging and Crumbling Infrastructure
• Flat population
• Staggering Unfunded Pension Liability
  – $16 Million must be paid immediately
Pittsburgh’s Nonprofit Sector

• 3,200 Nonprofits in Southwestern PA, most in the City of Pittsburgh
• Most are small – 67% have payrolls < $100K
• However ... 3% have payrolls > $10M
• 40% Education, Human Services, Healthcare
Contributions to the Pittsburgh Economy

• Employment
  – City: 24% nonprofit (74,000)
  – County: 16% (110,000)
  – Region: 14% (148,000)
  – Total nonprofit compensation: $6.2 Billion (Compare with $6.45 Billion in manufacturing sector)
    • 58% of compensation in healthcare, 23% in education, 10% in human services
    • Grew by 8.5% 2002-06 (total compensation grew by only 2.9%)
Contributions (cont.)

• Consumption of Goods and Services
  – $16.7 Billion in total nonprofit expenses (2006)
  – Employment impact: 300,000 jobs in region
  – $17 Billion total personal income
  – Total local value of economic production (Gross Regional Product of the nonprofit sector) expected to be $19 Billion in 2011
Tax Exempt Property: A Picture is Worth a Thousand Words

And $16 Million Dollars!
University of Pittsburgh Medical Center (UPMC) Headquarters

Formerly US Steel Building

UPMC is:

• $8 Billion “integrated global health enterprise”

• Largest employer in Western Pennsylvania and Second Largest employer in the Commonwealth (50,000 employees)

• 20 hospitals

• 400 outpatient sites

• Rehab, retirement, and long-term care facilities

• UPMC Health Plan serves 1.4 million members

• International and commercial services division (Italy, Ireland, UK, Qatar)
University of Pittsburgh

Cathedral of Learning

• The campus of the University occupies 132 acres in the heart of Oakland (educational and cultural center of Pittsburgh)
• Employs 12,000
• In top cluster (seven) of U.S. Public Research Universities
• Ranks 6th among all universities in NIH grants – Synergies with UPMC are extensive
Carnegie Mellon University

The campus of CMU with the Cathedral of Learning in the background

• CMU campus occupies 143 acres in Oakland neighborhood
• Internationally recognized research university
• Campuses in Silicon Valley and Qatar with programs in Asia, Australia, Europe, Mexico
Schenley Park, Pittsburgh

• 456 acres surrounding Pitt and CMU campuses
Other Major Land-owning Universities within the City Limits
YMCA Downtown Headquarters
Downtown Headquarters of the Red Cross of Southwestern PA
St. Paul’s Cathedral

• More than 1,000 places of worship

• Only Salt Lake City has more churches per capita
William S. Moorhead
Federal Office
Building, Downtown
Pittsburgh
City County Building, Pittsburgh
Impact of Tax Exempt Property

2009 Report of the PA Legislative Budget and Finance Committee

• Local governments (county, local, school districts) are the largest holders of tax exempt properties
  – Accounts for about 50% of exempt property in PA’s 11 distressed municipalities
  – Federal and state government account for about 10% of exempt property

• Pittsburgh Estimates (2003):
  – 44% of exempt property held by local governments
  – 22% held by colleges and universities
  – 17% held by hospitals and other charitable organizations
  – 11% held by federal and state government
A Brief History of the Battle Between Nonprofits and Municipal Government in Pittsburgh

• 1980s – mid 1990s: Confrontational “Outing”
  – HUP v. Commonwealth of PA
  – 5 part test so stringent, few nonprofits could meet the criteria
  – Lucrative PILOTs individually negotiated

• 1997 – 2009: Begging
  – Act 55 of 1997 clarified “purely public charity” and swung power back to nonprofits
  – Public Investment Fund: Roundtable of largest nonprofits
  – Pittsburgh Promise: UPMC Lead Gift

• 2009 – 2010: Hostage taking
  – Proposed “room tax” on hospitals and dormitories
  – Proposed 1% Tuition Tax (“Fair Share” Tax) on colleges students
    • Expected yield - $16 Million (“Hmmmmm!”)
The Outcome (Late 2009)

• Pittsburgh Council on Higher Education (PCHE) mobilizes highly effective PR campaign
• Media and State Legislators express skepticism regarding Mayor’s proposal
• Mayor withdraws “Fair Share” Tax Proposal
• Colleges and Universities pledge to work with City to identify and advocate for new sources of revenue, but ...
• No firm public pledge for higher PILOTs
• Some say the damage is going to be lasting
Policy Implications: “One Size Fits All” May Not Work

• Relatively few municipalities host major nonprofit land-owning institutions like hospitals or universities
• Maryland, Ohio, New York: Universities, hospitals, and other charitable organizations account for 15-20% of exempt property
• Conclusion: Opportunities for significant revenue generation may be more limited than commonly believed (Can’t tax self, other governments, or religious institutions)
Some Approaches

• Connecticut and Rhode Island distribute state funds to municipalities for certain nonprofit hospitals and universities
• Vermont and Delaware provides state money to communities that house state facilities
• Wisconsin reimburses cities for services provided to state buildings
• Pittsburgh’s Regional Assets District (RAD) redistributes small portion of County sales tax to support regional assets located in the City
• Quid pro Quo Approaches
Some Recommended Principles

**Municipalities**
- Don’t ask nonprofits to pay for financial mismanagement or legacy obligations
- Acknowledge taxes and fees that nonprofits DO pay
- Focus on nonprofit institutions, not the people who use them
- Focus on portions of property that do not serve charitable purpose
- Modernize revenue streams
  - Commuter tax
  - User fees
  - Regional tax base sharing
- Engage State Legislatures

**Nonprofits**
- Base tax exemption on SROI, not merely economic impact
- Avoid financial double-speak (charitable mission but operate like a business)
- Promote financial openness and transparency, including PILOTs
- Engage in “proactive” accountability
- Devise alternative ways to make community contributions
“Getting To Yes”  
Fisher and Ury

- Separate people from the problem
- Focus on interests, not positions
- Invent options for mutual gain
- Insist on objective criteria
NONPROFITS AND PROPERTY TAX EXEMPTIONS

AN ASSESSOR’S PERSPECTIVE
Peter Weissenfluh, Chief Assessor,
City of Milwaukee Assessor's Office
PROPERTY TAXATION REALITIES

• The annual tax rate is adjusted each year
• Regardless of exemptions, underassessment or even omitted assessments, the needs of the taxing authorities will be met
• Assessor’s have authority over the amount of the tax base
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TAX RATE DEVELOPMENT

• The interplay of three basic elements
  – Income (the amount of revenues needed)
  – Value (the annual tax base)
  – Rate (the result of the income divided by the rate)

• A “zero-sum” situation
EFFECT OF EXEMPTIONS ON TAX RATE

• 2009 city tax rate -- $8.89
• 2009 projected city tax rate if exempt property were taxable -- $6.67
• 2009 total tax rate -- $25.98
• 2009 projected total tax rate including exempt property -- $19.48
• The average home would pay $845 less if all property were taxable
PROPERTY TAX EXEMPTIONS – LEGISLATIVE GRACE

• Chapter 70 – exemptions for real and personal property
• Requirements
  – March 1st application deadline
  – Appropriate documentation
• Assessor’s statutory role
WELL DEVELOPED CASE LAW

• THE EXEMPTION MANTRA
  – Presumption
  – Burden
  – “Strict, but reasonable”
  – Public Policy
ASSESSOR ISSUES

• UNDEFINED TERMS
• LACK OF CLARITY
• POLITICAL REALITIES
• RESOURSE REALITIES