

Pennsylvania Association of Nonprofit Organizations

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To: *Pennsylvania House Local Government Committee*
Chairman Freeman
Chairman Pashinski

From: *David Ross, J.D.*
PANO Public Policy Officer
On behalf of Pennsylvania Association of Nonprofit Organizations

Date: *February 20, 2008, 12pm-12:30pm*

Subject: *Local Government Committee Local Government Committee Hearing*
HB 2018: Tax Exempt Property Municipal Assistance Fund

Location: *Wilkes-Barre City Hall, 40 East Market Street, Wilkes-Barre, PA 18702*

Chairman Freeman, Chairman Pashinski, and members of the House Local Government Committee, thank you for providing this opportunity for us to share our views on House Bill 2018 and the Tax exempt Property Municipal Assistance Fund.

My name is David Ross. I am the Public Policy Officer for Pennsylvania Association of Nonprofit Organizations. PANO is the statewide membership organization serving and advancing the charitable nonprofit sector through leadership, advocacy, education and services in order to improve the quality of life in Pennsylvania. PANO is a 501(c)(3) charitable nonprofit organization representing over 700 member charities and the broader charitable community. PANO helps charities become more effective.

House bill 2018 would help Pennsylvania's municipalities and charities alike by establishing an alternative, reliable funding source for distressed municipalities, and relieve pressure on charities for payments-in-lieu of taxes (PILOTs). By removing the fiscal urgency, distressed municipal governments will have some breathing-room to identify new funding sources, and develop existing assets to improve their tax-base.

So many 501(c)(3) charitable nonprofit organizations are concerned that they will be asked (or asked again) to pay PILOTs. Many charities face increased demand for their services during a lean economic climate. At the same time municipalities are facing decreased revenue, charities also face funding cuts. When funding for social service programs are reduced, charities struggle to provide the same level of service with less money. If a state agency had to provide those services, costs would likely be higher. If those services were eliminated completely, the social impact could cost the entire community.

For Arts nonprofits there's a different dynamic. Nonprofit Arts and cultural organizations are an economic engine for growth and development. For our blighted cities, development of arts venues

have helped stabilize real estate values, and attracted a host of supporting businesses. For many Pennsylvania cities, nonprofit arts and cultural organizations are part of an economic renaissance.

Scope of the Sector

According to 2007 statistics from the National Center for Charitable Statistics (NCCS) Pennsylvania is home to conservatively 41,000 501(c)(3) public charities and foundations. They include hospitals, colleges, daycare centers, clinics, soup kitchens, social service providers, and foundations. [7]

Pennsylvania's nonprofits employ 1 out of every 9 full-time workers in Pennsylvania (11.5% or 643,098 workers). This is 4.6% above the 6.9% national average. [8] Together Pennsylvania's nonprofit employees earned over \$21.1 billion in wages in 2003, or 10.7% percent of the State's total payroll. [8]

But not all nonprofits are alike, or have the same resources. According to a recent Urban Institute study, 73% of registered 501(c)(3) public charities in Pennsylvania had annual revenues of less than \$100,000, 81% had less than \$250,000. The vast majority of Pennsylvania's nonprofits are operating on relatively small budgets, with little money to allocate for anything outside of their mission. [7]

These community based tax-exempt institutions are a major reason that Pennsylvania has a reputation for world-class hospitals, colleges, museums, philanthropies and even social services. They are also the source for some of Pennsylvania's most important and challenging jobs. But this is the same community that on the average receives 9% lower wages and compensation for their services.

Some of these institutions own, and pay taxes on, taxable real property, while some provide their own police and sanitation services. Most nonprofit however, do not own property. Those that do own property rely on that property to provide services to the community. Charitable tax exemptions demonstrate that as a society we value charity, community service and volunteerism.

Act 55 of 1997

Pennsylvania Act 55 of 1997 the "Institutions of Purely Public Charity Act" is the seminal law that governs how charities operate, and qualify for State tax exemptions. [2] While charitable tax exemptions are expressly provided for in Pennsylvania's Constitution, Act 55 provides clear standards and thresholds for charitable behavior, and reduces the threat of court challenges. [1] The Act clarified the definition of a "purely public charity" as articulated in the HUP test.[3] So under the Act, "[A]n entity qualifies as a purely public charity if it possesses the following characteristics.

- (a) Advances a charitable purpose;
- (b) Donates or renders gratuitously a substantial portion of its services;
- (c) Benefits a substantial and indefinite class of persons who are legitimate subjects of charity;
- (d) Relieves the government of some of its burden; and
- (e) Operates entirely free from private profit motive."

All 5 criteria must be met to qualify for property and sales tax exemptions.

Act 55 reduced costly and unnecessary litigation by providing some clarity and uniformity. PANO lead the Charities Build Communities coalition that achieved the passage of Act 55 in 1997.

PILOT Agreements

Act 55 also provides for voluntary contributions or payments in-lieu-of taxes (PILOT) agreements between municipalities and their local nonprofit organizations. The voluntary aspect of these agreements is core to the compromises inherent in Act 55.

PILOTS can adversely effect charities' ability to provide programming and serve the needy in the community. Furthermore, PILOTS deplete critical charitable resource that the charity uses to build capacity to meet future community needs.

The Nonprofit Community holds divergent views on paying PILOTs. Some charities pay PILOTs to be "good citizens" or advance their charitable mission, while others consider PILOTs to be a form of extortion. The history of PILOTs in Pennsylvania is equally vexing.

Whatever the rationale for PILOTs, charities across Pennsylvania are paying PILOTs. Some agreements are made public, others are not. There is no single method applied, or database compiling this information. There is no measurement of the effectiveness of charities paying PILOTs either.

Some of the municipalities receiving PILOTs, or have considered requesting PILOTs from the charitable community are the Cities of Philadelphia, Pittsburgh, Erie, Scranton, Lancaster, as well as Centre County. The City of Pittsburgh for example receives over \$4 million in PILOTs each year from 103 of its largest nonprofits, mostly universities, hospitals and foundations. Only some of the local governments that are requesting PILOTs from their nonprofits are distressed under Act 47

Although property tax revenue is important to local governments, most local governments grant property tax exemption to nonprofits to facilitate economically and socially valuable public services. As for the economic benefit, nonprofits provide substantial public benefits that are underprovided by the private sector. Our 501(c)(3) Universities provides a number of public services, from education and research, to health care and commerce in the surrounding community which benefits the public as a whole.

Although nonprofits may generate surpluses, they must reinvest them in their mission, and can not distribute them for personal gain by individuals. As for the social benefit, most nonprofits provide public benefits that, in their absence, would have to be provided by the government and financed through taxes. If your local nonprofit Hospital did not exist, the local government would have to pay for the medical care for those who can not afford to pay. So with respect to nonprofit hospitals, their exemptions can be viewed as revenue neutral, or even a more effect way to provide those services. Forgoing taxes to pay for those services is usually more efficient that taxing the public to pay for those services.

Conclusion

PANO supports House bill 2018 and the Tax Exempt Property Municipal Assistance Fund. This legislation would aid both Pennsylvania's municipalities and charities alike by offering an alternative source of funds for distressed municipalities, while relieving the pressure from charities to pay PILOTs. By removing the urgency local governments will have some breathing-room to identify new funding sources, and develop assets that will improve their tax-base over time. By removing the

inherent tension between local governments and the charitable nonprofit organizations serving our communities, we can encourage greater collaboration, and improve the quality of life in Pennsylvania.

Thank you for providing the opportunity for our comments. I would be happy to answer questions at this time.

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Endnotes:

- [1] See. Pa. Const. Art Viii Section 2(a)(v)
- [2] Institutions of Purely Public Charity Act of 1997, Act of November 26, 1997, (P.L. 508, No.55) 10 P.S. §§ 371 – 385.
- [3] Hospital Utilization Project v. Commonwealth, 507 Pa. 1, 487 A.2d 1306 (1985)
- [4] Section 204(10) of the Tax Reform Code of 1971. Article II Act of March 4, 1971 (P.L.6, No.2) known as the Tax Reform Code of 1971.
- [5] Internal Revenue Code of 1986, 26 U.S.C. § 501
- [6] Solicitation of Funds for Charitable Purposes Act, December 19, 1990 (P.L.1200, No202)
- [7] The Urban Institute, National Center for Charitable Statistics,
<http://nccsdataweb.urban.org/PubApps/profile1.php?state=PA> (Pennsylvania profile).
- [8] Pennsylvania Nonprofit Employment, Johns Hopkins Nonprofit Employment Data Project, (2005) http://www.pano.org/documents/PA_Nonprofit_Employment_Report.pdf