(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

Payments in Lieu of Taxes By Nonprofits: Case Studies

by Daphne A. Kenyon and Adam H. Langley

Daphne A. Kenyon is a visiting fellow and Adam H. Langley is a research analyst at the Lincoln Institute of Land Policy in Cambridge, Mass.

The authors want to thank Patsy Bailin, Bethany Paquin, Joseph Small, and Joan Youngman for their helpful comments on previous drafts.

Properties owned by charitable nonprofits and used for a tax-exempt purpose are exempt from property taxes in all 50 states. The type of nonprofits exempt from property taxes is wide-ranging and includes private universities, hospitals, social service providers, art museums, retirement homes, churches, and many more (Gallagher 2002). Municipalities that host these tax-exempt nonprofits receive many benefits from their presence: These nonprofits often are major employers, provide an array of services for local residents, and attract visitors to the community. However, municipalities may also face fiscal pressures from their presence, because although these nonprofits consume public services such as police and fire protection and road maintenance, they do not pay property taxes for those services. Some municipalities try to address those fiscal pressures by seeking payments in lieu of taxes (PILOTs) from tax-exempt nonprofits.

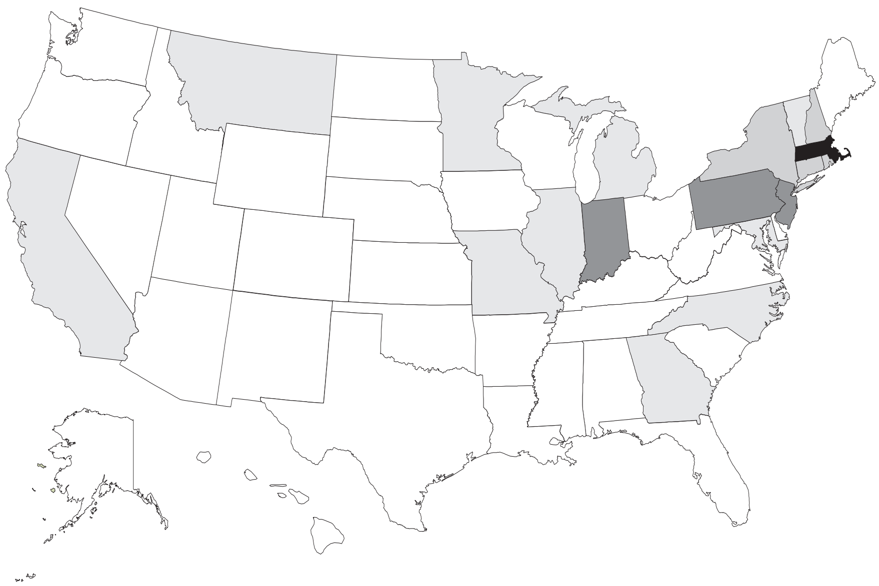
PILOTs are voluntary payments made by tax-exempt nonprofits as a substitute for property taxes. Those payments typically result from negotiations between local government officials and individual nonprofits, but the exact arrangements vary widely. PILOTs are sometimes long-term contracts lasting 20 to 30 years, sometimes routine annual payments, and sometimes irregular one-time payments. They are often determined in an ad hoc manner during negotiations, but sometimes municipalities use a formulaic approach to calculate suggested PILOTs. For example, the requested PILOT can be calculated based on assessed value (often using one quarter or less of the community-wide property tax rate), a set dollar amount per square foot of property or street frontage, or based on rough estimates of the public services used by a nonprofit (for example, the number of calls for police or fire protection) and the associated costs. The payments can go into a municipality's general fund or be directed to a specific project or program. To further complicate matters, these payments are sometimes called "voluntary contributions" or "service fees," even if we count them as PILOTs because they are voluntary payments made by tax-exempt nonprofits. Also, we exclude other types of payments that are sometimes termed PILOTs, including incentives that local governments sometimes offer to businesses for which they make PILOTs instead of paying full property taxes.

> ***Since 2000, PILOTs have been used in at least 117 municipalities in at least 18 states.***

Our research shows that since 2000, PILOTs have been used in at least 117 municipalities in at least 18 states (Kenyon and Langley 2010). Figure 1 (next page) shows that PILOTs are most common in the Northeast, especially in Massachusetts, where they have been made in 82 out of 351 municipalities (McArdle and Demirai 2004). The more frequent use of PILOTs in the Northeast could be tied to the region's high reliance on property taxes and its large nonprofit sector relative to other parts of the country. Table 1 (p. 173) looks at PILOTs in 12 municipalities. Although PILOTs rarely account for more than 1 percent of a locality's total revenue, the absolute dollar values can be quite large and play an important role in funding local public services.

It is hard to make definitive statements about trends in the use of PILOTs because there is no comprehensive source tracking these payments over time, but press accounts suggest interest in PILOTs has been growing since the early 1990s and even more so in recent years. Several factors are driving this apparent growth in the use of PILOTs. The most important factor in recent years has been the severe revenue pressures faced by many municipalities. Cities faced declines in general fund revenues of 2.5

Figure 1.
States With Municipalities Collecting PILOTs (2000-2010)



■ 80+ Municipalities with PILOTS: MA
■ 4-8 Municipalities with PILOTS: IN, NJ, PA
■ 2-3 Municipalities with PILOTS: CT, NH, NY, RI
■ 1 Municipality with PILOTS: CA, GA, IL, MD, MN, MO, MT, NC, VT
□ 0 Municipalities with PILOTS

percent in 2009, and approximately 3.2 percent in 2010 (Hoene 2009; Hoene and Pagano 2010). Property values have declined 31 percent since their 2006 peak, according to the S&P/Case-Shiller U.S. National Home Price Index, but it will take several years to know how this historic decline will affect property tax revenue because property tax bills lag changes in market values by about three years (Lutz 2008). And although federal stimulus aid helped support local government budgets in fiscal years 2010 and 2011, federal aid for cities was cut significantly in fiscal 2012, and many states have made large cuts in state aid for local governments. Those revenue pressures may drive more municipalities to consider trying to obtain PILOTs from local nonprofits.

Revenue pressures may drive more municipalities to consider trying to obtain PILOTs from local nonprofits.

Growing scrutiny of the nonprofit sector may also play a role in the growing use of PILOTs. Research suggests public support for the nonprofit tax exemption is tied to the charitable nature of nonprofits, and that support declines as nonprofits pursue commercial activities and increase reliance on fee revenue, both of which have been trends in the nonprofit sector in recent decades (Kenyon and Langley 2010, 7-9). Also, public confidence in charitable organizations fell significantly between July 2001 and May 2002 following controversies over the disbursement of September 11 relief funds and high-profile scandals involving the Nature Conservancy and some private foundations (Light 2004), and stayed at those lower levels at least through 2008 (Light 2008). Finally, the antitax climate may lead more municipalities to consider PILOTs, because of more general efforts to avoid raising tax rates in favor of increased reliance on user fees and other alternative revenue sources (Marlantes 2011).

The revenue potential of PILOTs varies dramatically across municipalities because of large differences in the effect of the charitable property tax exemption on their tax bases. For example, Figure 2 (p. 174) shows that in 23 large U.S. cities the value of tax-exempt nonprofit property as a share of total property value ranged from 10.8 percent in Philadelphia to 1.9 percent in El Paso, Texas, and Memphis, Tenn. Similarly, a study of Massachusetts's 351 municipalities found that if the tax exemption for charitable and educational nonprofits were removed, those organizations would account for more than 10 percent of the property tax levy in 18 municipalities, but less than 1 percent of the tax

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

Table 1.
PILOT Contributions to City Revenues, Selected Cities

City	Revenue Generated ($)	City Budget ($)	Year	Revenue Generated as Share of Total Budget (%)
Baltimore	5,400,000	2,935,976,521	Fiscal 2011	0.18
Boston	17,432,359	2,394,000,000	Fiscal 2010	0.73
Bristol, R.I.	181,852	43,846,275	Fiscal 2009	0.41
Butler, Pa.	15,000	8,442,098	Fiscal 2010	0.18
Cambridge, Mass.	4,508,000	466,749,012	Fiscal 2008	0.97
Lebanon, N.H.	1,280,085	42,312,510	Fiscal 2010	3.03
Princeton Borough, N.J.	1,180,496	24,716,959	Fiscal 2010	4.78
Minneapolis	158,962	1,400,000,000	Fiscal 2009	0.01
New Haven, Conn.	7,500,000	648,585,765	Fiscal 2010	1.16
Pittsburgh	2,800,000	507,797,100	Fiscal 2011	0.55
Providence, R.I.	3,686,701	444,544,123	Fiscal 2010	0.83
Worcester, Mass.	590,000	506,076,587	Fiscal 2011	0.12

Source: Authors' research.

levy in 179 municipalities (McArdle and Demirai 2004). Nonprofit property tends to be highly concentrated in a small number of municipalities, especially central cities and college towns, and those are the cities and towns where PILOTs are most likely to play an important role in financing municipal government.

A more comprehensive look at PILOTs can be found in our report, "Payments in Lieu of Taxes: Balancing Municipal and Nonprofit Interests" (Kenyon and Langley 2010). To provide more detail on the wide range of approaches municipalities use to offset the tax revenue forgone because of the charitable property tax exemption, this report focuses on six contemporary case studies.

Boston: Mature PILOT Program Moves to New Phase

Boston has collected PILOTs since the 1930s, but its current program was initiated in 1983 (Leland 2002, 203). In fiscal 2011 the city received cash PILOTs worth $15 million from 21 nonprofits, including 12 colleges and universities, seven medical institutions, and two cultural and other institutions, which makes Boston's program the most revenue productive in the nation. The largest contributors were, in order of the size of their contributions, Boston University ($5.1 million), Partners HealthCare ($4.3 million), and Harvard University ($2.1 million). Most nonprofits make more modest contributions and some make no PILOTs. The city reported total PILOTs worth $17.4 million in fiscal 2010. In addition to cash PILOTs (84.5 percent of total), the city counts some in-kind contributions as community service credits (12.7 percent of total) and taxes paid on properties that are eligible for an exemption based on their use (2.8 percent of total). Although the PILOT total represented less than 1 percent of the city budget, even that contribution is important in tough fiscal times; moreover, the city hopes to significantly increase the contributions from nonprofits.

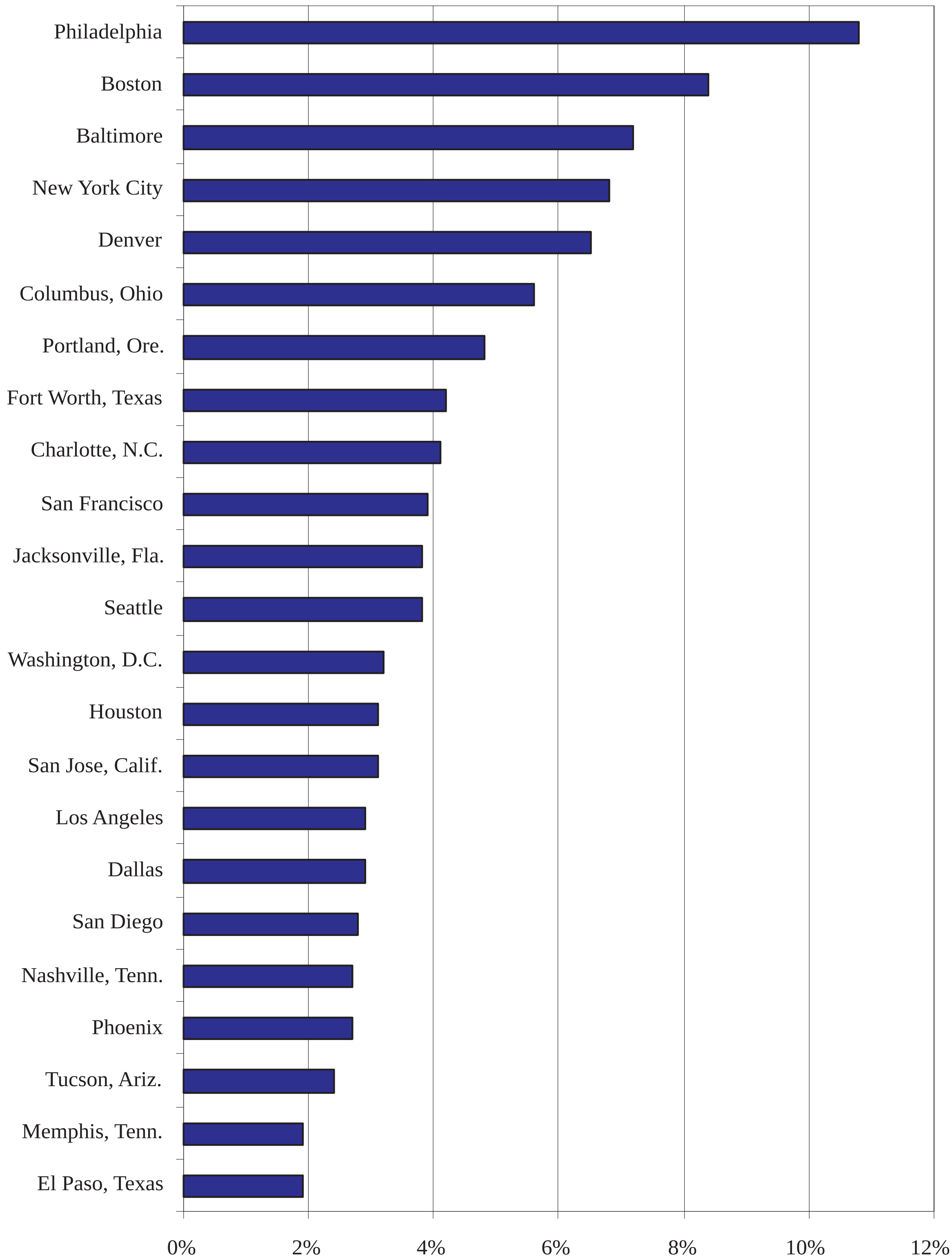
For many years, Boston's PILOT program operated as follows. The Boston city government initiated communication with a nonprofit with the objective of reaching a PILOT agreement when it expanded its real estate holdings, particularly when it acquired taxable property and applied for tax exemption, or when it embarked on a construction project. When agreements were reached, they typically extended between 10 and 30 years, with the agreed-on baseline PILOT subject to an annual escalator clause. When determining an appropriate PILOT amount, the city considered several factors, including square footage, usage of the property, and construction costs (City of Boston 2010, 49). For properties taken off the tax rolls, the city's goal has been to collect 25 percent of what would have been owed if the property were taxable, because approximately one quarter of the city's budget is devoted to core public services that benefit nonprofits, such as police and fire protection. As of fiscal 2009, educational and medical institutions in total made PILOTs equal to 4.3 percent of what they would have paid in property taxes if they were taxable.[1]

In January 2009 Mayor Thomas Menino appointed a task force to review the PILOT program

[1]Kenyon and Langley 2010, 21. This includes community service credits and taxes paid on properties eligible for exemption based on their use.

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

Figure 2.
Estimated Value of Exempt Property Owned by Nonprofits as a Percent of Total Property Value



Source: Lipman (2006).
Note: These statistics should be viewed as rough estimates. Policymakers should exercise caution when drawing conclusions from these data, because the quality of assessments of exempt property is varied and often unreliable.

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

Table 2.
Estimated Property Tax Revenue if Taxable and PILOTs for Nonprofits in Boston

	Fiscal 2011 Exempt Property Value	Fiscal 2011 Revenue if Taxable	Fiscal 2011 Cash PILOT and Property Tax Credit	Fiscal 2011 Payment as % of Revenue if Taxable	Fiscal 2016 Proposed PILOT After Phase-in
Educational Institutions					
Berklee College of Music	$149,334,523	$4,610,444	$273,722	5.94%	$460,023
Boston Architectural College	19,056,500	566,614	-	0	15,739
Boston College	526,217,533	16,308,892	866,400	5.31	1,699,110
Boston College High School	27,176,500	818,659	-	0	47,245
Boston Conservatory	16,792,000	496,324	-	0	6,953
Boston University	2,061,201,814	63,954,804	7,359,065	11.51	6,800,770
Emerson College	240,541,000	7,441,493	141,591	1.90	875,099
Emmanuel College	153,126,000	4,728,131	-	0	535,929
Fisher College	39,785,000	1,210,026	-	0	96,166
Harvard University	1,522,337,601	47,228,459	2,125,480	4.50	5,840,376
Mass. College of Pharmacy	109,297,000	3,367,679	173,037	5.14	365,872
New England Conservatory	31,627,000	956,802	-	0	64,513
Northeastern University	1,285,478,281	39,876,346	1,257,402	3.15	4,316,040
Roxbury Latin School	52,829,300	1,614,921	-	0	146,778
Showa Institute	50,873,600	1,554,217	123,084	7.92	139,190
Simmons College	134,862,000	4,161,216	15,000	0.36	465,065
Suffolk University	224,068,717	6,930,193	378,979	5.47	811,187
Tufts University	144,090,662	4,447,674	232,975	5.24	500,872
Wentworth Institute	196,470,568	6,073,546	31,504	0.52	704,106
Wheelock College	54,656,000	1,671,622	-	0	153,865
Winsor School	41,283,900	1,256,552	-	0	101,982
TOTAL	**$7,081,105,499**	**$210,460,615**	**$12,978,239**	**6.17%**	**$24,146,878**
Medical Institutions					
Beth Israel Deaconess Med. Center	813,129,901	25,214,652	167,000	0.66	3,096,744
Boston Medical Center	320,679,100	9,928,979	153,874	1.55	1,177,910
Children's Hospital	660,688,500	20,482,871	187,500	0.92	2,467,482
Dana Farber Cancer Institute	248,137,603	7,677,291	99,972	1.30	904,574
Franciscan Hospital	50,402,000	1,539,578	-	0	137,360
Harvard Vanguard	109,848,200	3,384,788	294,886	8.71	368,011
Mass Eye Ear	143,712,900	4,435,948	-	0	499,406
New England Baptist Hospital	134,481,973	4,149,420	-	0	463,590
Partners HealthCare	2,723,055,035	84,498,728	4,610,787	5.46	10,373,676
Shriners Hospital	102,457,400	3,155,378	-	0	339,335
Tufts Medical Center	606,053,000	18,786,985	1,265,602	6.74	2,100,626
TOTAL	**$5,912,645,612**	**$178,847,620**	**$6,779,622**	**3.79%**	**$21,928,714**
Cultural and Other Institutions					
Boston Symphony	29,178,062	880,787	84,976	9.65	55,011
Children's Museum	31,029,000	938,240	-	0	62,193
Hebrew Rehab	53,017,000	1,620,748	-	0	147,506
Institute of Contemporary Art	37,162,500	1,128,624	-	0	85,991
Museum of Fine Arts	282,450,999	8,742,379	76,668	0.88	1,032,486
Museum of Science	34,903,500	1,058,505	-	0	77,226
New England Aquarium	70,176,100	2,153,366	-	0	214,083
WGBH Radio Station	81,705,000	2,511,223	-	0	258,815
TOTAL	**$619,622,161**	**$15,948,972**	**$161,644**	**1.01%**	**$1,933,311**
GRAND TOTAL	**$13,613,373,272**	**$404,375,806**	**$19,919,505**	**4.93%**	**$48,008,901**

Source: City of Boston Assessing Department. 2011. PILOT Projections for Fiscal 2012.
Note: Property tax credits are given to institutions that voluntarily pay taxes on properties that are eligible for exemption based on their use. In Fiscal 2011, 21 nonprofits in this table made PILOTs worth $14,953,531 and 10 had property tax credits worth $4,965,974. The Fiscal 2016 Proposed PILOT After Phase-In equals 25 percent of the property taxes that each nonprofit would owe after a $15 million exemption ($100,983,777 total), minus property tax credits ($4,965,974) and a community benefits deduction equal to each nonprofit's cash PILOT ($48,008,901).

with the goals of making the PILOT contributions more consistent across institutions and increasing PILOT revenue. The task force, which deliberated for nearly a year and a half, included representatives from universities, hospitals, city government, public-sector unions, business, and community groups. In April 2010 the task force unanimously adopted several recommendations, some of which reiterated long-standing elements of the program, such as the understanding that PILOTs would be voluntary, and some of which broke new ground (City of Boston 2010). Regarding the latter, the task force recommended extending the program to all nonprofit groups, which means placing more emphasis on museums, cultural institutions, and secondary education institutions (none of which were included in the task force). Also, importantly, the task force made its goal to collect 25 percent of what nonprofits would have paid if they were taxable, and phasing that in over a five-year period. Some types of in-kind services provided by nonprofits could count as community service credits and offset up to 50 percent of the target cash PILOT. Whereas the previous PILOT program was applied incrementally as individual properties were taken off the tax rolls or nonprofits began construction projects, the new PILOT program sets its 25 percent goal based on the total exempt value owned by each nonprofit. Council member Stephen Murphy predicted that for fiscal 2012, when Boston faces a likely budget deficit because of cuts in state aid, the PILOT program will bring in an additional $5 million (Murphy 2010).

The Boston case study is important in a number of respects. First, the program is long-standing, so PILOT revenue provides a stable revenue source for the city. Second, although not all nonprofits contribute PILOTs, a broad range of nonprofits do make payments. Third, to a large degree the relationship between the city government and nonprofits is collaborative, as the unanimous agreement on task force recommendations illustrates. The city realizes that it benefits from the world-class health and education institutions it hosts, and Boston nonprofits realize that contributing to the fiscal health of the city where they reside is in their own self interest. For example, the president of Boston University, which contributes the largest PILOT and thus clearly supports the PILOT program, has said, "My primary goal in life is to make Boston University a better institution, but it can only be a better institution if the city thrives" (Rezendes 2011).

Worcester, Mass.: 30-Year Impasse on PILOT Negotiations Resolved

There have been efforts to reach PILOT agreements in Worcester since the early 1980s. The revenue potential of PILOTs is considerable: If the city's exempt properties were taxable, they would have accounted for 10.4 percent of the city's tax levy in fiscal 2010 (O'Brien 2011). Yet despite the presence of a large exempt sector, previous efforts to reach PILOT agreements with the city's nonprofits had consistently failed. This changed in November 2008 when the city reached its first PILOT agreement with the Massachusetts College of Pharmacy and Health Sciences. Since then the city has negotiated two more agreements that are collectively worth more than $17 million over 25 years (see Table 3). Many observers in Worcester believe that there were two critical changes that helped turn historical opposition to PILOTs into successful agreements: City officials adopted a respectful tone rather than resorting to pressure tactics, and they earmarked PILOT funds for some services that were nonprofit priorities rather than directing contributions to the city's general fund.

A 2009 editorial by the *Worcester Telegram & Gazette* argued that the negotiations that led to a PILOT agreement with Worcester Polytechnic Institute (WPI) offered a lesson:

> Its success wasn't the outcome of a loud uncomfortable attempt to wring money from a tax-exempt entity. Rather, it appears that quiet, respectful negotiations between WPI and city officials have paid off in big ways for both sides — obviously for the city, and also for WPI, whose generosity will be appreciated and remembered by many.

City Manager Michael O'Brien frequently notes that PILOTs are based on mutual benefits and mutual goals; underlying the agreements is a recognition that the success of the city depends on the nonprofits and vice versa, and that both sides benefit from economic development, nicer parks, and safer streets. Also, instead of relying on common arguments for PILOTs that can antagonize nonprofits — that they are not paying their fair share for municipal services, and so on — the city manager has always highlighted the extensive public benefits generated by local nonprofits and said that PILOTs underscore their commitment to the community. Finally, in the course of negotiating PILOTs, the city has been receptive to the needs of local nonprofits. For example, as part of a PILOT agreement with Clark University, the city agreed to work with the university to obtain the approvals needed to transform a short section of a street that crosses the campus into a pedestrian plaza, which has been a safety concern for the school.

A proposal by city councilors in November 2008 to direct PILOTs from private colleges to the Worcester Public Library instead of the city's general fund has also been credited with helping to get colleges and universities to buy into the idea of PILOTs. Agreements with WPI and Clark University have also earmarked part of their PILOTs for funding major improvements to public parks near the schools'

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

Table 3.
PILOT Agreements in Worcester, Mass.

	Massachusetts College of Pharmacy and Health Sciences	Worcester Polytechnic Institute	Clark University
Date of agreement	November 26, 2008	May 12, 2009	Sept. 20, 2010
Initial annual payment	$50,000	$270,000	$262,000
Annual inflator	2.5%	2.5%	2.5%
Duration	25 years	25 years	20 years
Total value	$1.25 million - $1.5 million	More than $9 million	More than $6.7 million
PILOT funds earmarked for specific services and projects	Worcester Public Library	1) Worcester Public Library (first year's contribution used to restore hours on Wednesdays and Sundays) 2) Funds to implement the Institute Park Master Plan, which will enable improvements to public park adjacent to WPI campus	1) Worcester Public Library 2) Funds to implement the University Park Master Plan, which will enable improvements to public park adjacent to Clark campus 3) Enhancements for nearby Main South neighborhood, including public safety, streetscape improvements, and more
Other major investments in the community by the nonprofit that have been highlighted by the city	$85 million investment in downtown properties that were formerly vacant	Leading partner in the development of Gateway Park, a mixed-use life sciences complex, in which WPI has invested $54 million to revitalize a former 12-acre brownfield site	1) Primary partner and financial backer of University Park Partnership with local public schools and Main South Community Development Corp., which focuses on neighborhood revitalization and education 2) Scholarships for neighborhood students, and other free services for public school students and city employees

Sources: Kotsopoulos (2008, 2009, 2010).

campuses (see Table 3). It makes sense that a nonprofit would be more likely to make a voluntary contribution if the funds are allocated for services or projects that directly benefit the nonprofit itself. Also, aligning a PILOT with a nonprofit's mission could make it more acceptable to its board of directors, donors, and others who may otherwise oppose using nonprofit funds for municipal services.

Thus far the city has focused on negotiating PILOTs with private colleges and universities, and it is having discussions with the College of Holy Cross and Becker College to reach agreements.

Baltimore: Pressure Tactics Used to Obtain PILOTs

Baltimore has reached numerous PILOT agreements going back to 1974, but Baltimore's efforts have been less revenue productive and visible than Boston's. According to a survey, fiscal 1998 payments from 48 organizations, primarily housing facilities, nursing homes, and community development corporations, totaled $3.4 million (Leland 2002, 203). Instead of basing payments on assessed value of property as in Boston, contributions were based on an organization's annual operating revenue.

In April 2010, facing a $121 million budget shortfall, Mayor Stephanie Rawlings-Blake introduced a plan to balance the budget that included a controversial "exempt bed property fee" or bed tax of $350 per bed per year on the city's largest colleges, universities and hospitals (Office of Mayor Stephanie Rawlings-Blake 2010). After some negotiations between the mayor's office, the Maryland Hospital Association, and the Maryland Independent College and University Association, the bed tax proposal was dropped in exchange for a new six-year PILOT agreement.

Under the agreement, the hospital and college associations agreed that 16 of their members located in Baltimore would make cash payments, termed "special assessments," totaling $20.4 million from fiscal 2011 through fiscal 2016, with the payments purposely front-loaded in recognition of the immediate fiscal crisis (City of Baltimore 2010). The agreement allowed the member institutions to determine as a group how much each institution would contribute to the total, but together Johns Hopkins University and two Johns Hopkins medical institutions agreed to contribute approximately half. The agreement also stipulated that the nonprofits would not

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

be subject to an increase in the energy tax and telecommunications tax they pay over the six-year period. As part of the agreement, the city agreed not to seek additional revenue from the member organizations or to impose any new targeted taxes.

The Baltimore case appears to be an example in which pressure tactics, followed by negotiations, produced a considerable increase in PILOT revenue at a time when the city was experiencing fiscal stress. It is interesting that the agreement is specifically tied to the duration of the fiscal crisis, with the member organizations agreeing to contribute $5.4 million per year in the first two years of the agreement, but with the annual amounts adjusted down over time until they reach $1.4 million in fiscal 2016.

Princeton, N.J.: University Links Continued PILOT to Zoning Request

Princeton University has been considering for several years an arts and transit project that would require a zoning change from both Princeton Township and Princeton Borough. At the same time, Princeton has been making PILOTs to both local governments but is at the end of its current six-year PILOT agreement.

> ***The Princeton case illustrates one of the problems with PILOT revenue — it may not be reliable.***

On January 31, 2011, the president of Princeton University appeared at a joint Princeton Borough/Princeton Township zoning meeting and appeared to threaten to discontinue the university's annual $1.2 million PILOT if the zoning change were not approved (Hurley-Schubert 2011). Jo Butler, a member of the Borough Council, took offense, saying that withdrawal of the PILOT would require a significant property tax increase to make up the lost revenue, an increase that would likely exceed the amount allowed under the state property tax cap. Butler argued that:

> How are we to make any decision that might remotely impact the University in a way that displeases them when they can simply threaten to withhold their voluntary agreement? . . . That isn't a good partnership. We need a relationship where we can count on the University whether they are getting what they want when they want. As taxpayers, we certainly don't agree with every decision the governing body makes, but we are still obligated as citizens to pay our taxes [Butler 2011].

The latest development in the Princeton case is that the university has been taken to court by a group of residents who argue that the university should be paying property taxes on 20 of its buildings that are now treated as tax-exempt. One of those buildings houses Princeton University Press and is assessed at $9.5 million (Knapp 2011). Whether this new lawsuit is related to the PILOT controversy is unknown.

In some respects, the Princeton case is the antithesis of the Baltimore case. In Baltimore the city government threatened to levy a tax, thereby extracting a PILOT. In the case of Princeton, the university appears to be threatening to end its PILOT if it does not receive its requested zoning change. The Princeton case illustrates one of the problems with PILOT revenue — it may not be reliable.

Providence, R.I.: Budget Crisis Leads Mayor to Propose PILOTs Expansion

In 2003 the city of Providence reached a 20-year agreement on PILOT contributions with four private colleges totaling $48 million.[2] But in 2009, only six years into the agreement, the economic downturn led the city to reexamine the financial contribution nonprofits were making. State legislation was filed to impose a $150 fee per full-time student per semester and to collect payments up to 25 percent of the property tax liability that would be owed if exempt properties were subject to full taxation, but neither proposal was enacted (Marcelo 2009).

In September 2009 the city established a Commission to Study Tax-Exempts, whose charge was to examine the relationship between the growing nonprofit sector and the city. The commission found that the city had been losing private-sector jobs in manufacturing and finance but gaining jobs in the nonprofit sectors of education, healthcare, and social services. In 2010 seven of the city's top 10 employers were tax-exempt organizations (Providence City Council 2010, 3).

In November 2010 the commission released its report. The commission advised the city not to reopen the 20-year PILOT agreement and was silent on the issue of whether to craft PILOT agreements with the city's hospitals or other nonprofit institutions. Instead, it recommended that the city create an economic development partnership with its nonprofits along the model of Philadelphia's University City District, which reduced crime and brought in billions of dollars of additional investment, or Worcester's UniverCity Partnership, which expanded workforce training, employment, and financial aid opportunities for Worcester residents (Marcelo 2010). The commission also recommended that Rhode Island fully fund its statutory PILOT program, which has the goal of compensating the city

[2]These are Brown University, Johnson & Wales University, Providence College, and Rhode Island School of Design.

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

for 27 percent of the property tax revenue forgone from hosting a tax-exempt nonprofit, instead of the 21 percent budgeted for fiscal 2011 (Providence City Council 2010, 3). Rhode Island and Connecticut are the only two states with PILOT programs that compensate local governments for property tax revenue forgone from hosting nonprofit institutions.

In March 2011 new Mayor Angel Taveras found the city was facing a $110 million projected budget deficit on top of a $29 million gap for the current fiscal year and significant underfunding of the city's pension and retiree health insurance funds (Stanton 2011). In response to the fiscal crisis, Taveras proposed a wide range of spending cuts and revenue measures in his fiscal 2012 budget. He has proposed cutting public employees' pay and increasing health insurance co-pays and has already closed several schools and cut his own pay from $125,000 to $112,500. Revenue measures include a property tax increase in excess of the state's tax cap and increases in various fees (Stanton 2011).

Part of the revenue proposal includes a plan to obtain additional revenue from tax-exempt nonprofits. Under Providence's current program, only four colleges make PILOTs. Taveras proposes extending the program to hospitals to raise an additional $7 million in the next fiscal year.[3] His eventual goal is for the nine largest nonprofits in the city to pay $24 million annually, an amount equal to 25 percent of what they would pay if taxable, a goal inspired by Boston's PILOT program. If nonprofits do not reach voluntary agreements with the city, Taveras proposes to lobby for state legislation requiring them to make payments equal to 25 percent of what they would owe if taxable (Davis and Pina 2011). According to Taveras, "Providence stands on the edge of a financial precipice. If we are unable to achieve the cost savings and revenue goals in this budget, the free fall of our city over the edge will lead us into dark, uncharted territory" (Pina 2011).

New Orleans Rejects PILOTs, Examines Changes in Tax Exemption

In the five previous case studies, municipalities tried to offset forgone property taxes caused by the charitable tax exemption by reaching agreements with local nonprofits to make PILOTs. But sometimes municipal officials have more general concerns about the breadth of the charitable exemption itself, which is the case in New Orleans, where tax-exempt properties owned by nonprofits account for roughly 21 percent of total assessed value (Bureau of Governmental Research 2011, 2). Normally, municipalities have little control over the breadth of the exemption because the requirements that nonprofits must meet to qualify for a property tax exemption are determined at the state level; therefore, pursuing voluntary payments with nonprofits is a way to raise some revenue without needing any change in state law. But a task force in New Orleans has decided to focus on changing the state's charitable exemption both because Louisiana has an unusually broad exemption and because task force members are concerned that PILOTs are ad hoc and have limited revenue potential.

Louisiana's charitable tax exemption is unusually broad in two respects. First, the state constitution explicitly exempts a wide range of nonprofits, including fraternal organizations; labor unions; trade, business, and professional associations; and even Mardi Gras organizations. No other state constitution calls for tax exemptions for those types of organizations (Bowman 2002, 33). Second, in almost all states, property must be both owned and used by a nonprofit to qualify for a property tax exemption. In contrast, Louisiana has no use requirement specifying that property owned by a nonprofit must be used for an exempt purpose; instead, tax exemptions are granted to all properties owned by an eligible nonprofit as long as they are not used for an unrelated commercial purpose. Courts have ruled that this provision extends the tax exemption to idle properties and property used for ancillary commercial purposes (Bureau of Governmental Research 2011, 7).

In December 2010 Mayor Mitch Landrieu established the New Orleans Tax Fairness Commission to recommend changes to create a fairer tax system in New Orleans. The commission released a preliminary set of recommendations in April 2011, that would require changes in state law, and asked the Legislature to place three constitutional amendments before the voters to:

- narrow the types of organizations and the uses of property eligible for property tax exemptions so Louisiana law is more consistent with other states;
- grant a local option for municipalities to opt out of the nonprofit property tax exemption as long as the tax is levied on no more than 50 percent of a property's assessed value; and
- reverse court decisions that have extended the nonprofit tax exemption to certain properties that are not directly used for exempt purposes.

Amending the state constitution is likely to be difficult and requires two-thirds support in both chambers of the Legislature as well as a majority of state voters. The commission faced a June 1, 2011, deadline for a final set of recommendations on reforming the city's tax system that could be carried out at the local level.

---

[3]This would extend the PILOT program to Women and Infants Hospital, Butler Hospital, Roger Williams Medical Center, and Miriam Hospital.

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

Conclusion

As these case studies show, there is no such thing as a standard PILOT because these payments vary widely across municipalities in many important ways. Despite those differences, PILOTs frequently face a similar set of problems related to the fact that they are voluntary payments: They have limited revenue potential; there are often large horizontal inequities in the amounts of payments; PILOTs are often determined in an ad hoc way; and negotiations to obtain payments can be contentious.

In Baltimore a threatened bed tax may have provided the city necessary leverage to reach a new six-year PILOT agreement. Similarly, in Pittsburgh a threatened tuition tax was dropped once local colleges and universities agreed to a new three-year PILOT agreement (Urbina 2009). Contentious tactics can make both sides worse off. In Princeton the borough faces the possibility of losing nearly 5 percent of its total revenues if the university stops making its annual PILOT, while the university faces the possibility of 20 of its properties losing the tax-exempt designation because of a lawsuit brought by private citizens.

In a narrow sense, these contentious tactics might work for municipalities in their quest to obtain PILOT revenue. However, a more collaborative approach is generally better for both sides and may make the time period of PILOT agreements considerably longer. A collaborative approach is also more likely to foster partnerships between municipalities and nonprofits that go beyond PILOTs to foster local economic growth, such as those suggested by the Commission to Study Tax-Exempts in Providence.

The systematic approach recently adopted in Boston has the potential to establish a consistent policy for reaching PILOT agreements with all large nonprofits in the city. If the city's nonprofits agree to participate in the program, PILOT revenue would reach roughly $48 million within five years with nonprofits also providing a range of requested public services for residents that are equivalently valued, payments would be calculated in a transparent and consistent way, and the large discrepancies in the amounts of PILOTs across similar nonprofits would disappear. Although this systematic approach may work well for Boston, it might be difficult to replicate in cities without a long history of PILOTs. Because these are *voluntary* payments, building some support for PILOTs among nonprofits is an essential first step to reaching sustainable agreements, a step Boston has already accomplished to a large extent. For cities without a history of PILOTs, establishing a task force like the one in Boston is even more important in building support for a systematic PILOT program among nonprofits because it ensures that they have a major role in designing the program.

> ***Some municipalities interested in pursuing PILOTs may be better served by relying solely on case-by-case negotiation with individual nonprofits.***

Some municipalities interested in pursuing PILOTs may be better served by relying solely on case-by-case negotiation with individual nonprofits, because taking a more formulaic approach is sometimes perceived as making PILOTs more like mandatory contributions and thus may lead to resistance from nonprofits. Also, case-by-case negotiation allows for PILOT amounts to be more closely tailored to the financial capacities of each nonprofit and the public services it uses. The Worcester case study also shows how case-by-case negotiations can allow for more creative PILOT arrangements that can overcome long-standing opposition among nonprofits, in that case by earmarking PILOT funds for specific nonprofit priorities.

The daunting fiscal challenges facing municipalities around the country mean that interest in PILOTs is likely to hold steady or grow in future years. The wide variations in existing PILOT agreements and the processes that led to those payments offer officials from other local governments and nonprofits the opportunity to learn from those experiences about which approaches are most likely to succeed.

References

Bowman, Woods, "Institutional Property-Tax Exemption: In Theory and Practice," Cambridge, Mass.: Lincoln Institute of Land Policy Working Paper, Oct. 30, 2002.

Bureau of Governmental Research, "The Nonprofit Margin: Addressing the Costs of the Nonprofit Exemption in New Orleans," March 2011.

Butler, Jo, "Comments at Council Meeting Regarding Budget and Arts and Transit," Mar. 23, 2011, *available at* http://jobutler.com.

City of Boston, "Mayor's PILOT Task Force: Final Report and Recommendations," December 2010.

City of Baltimore, MOU Between the City of Baltimore and Certain Members of the Maryland Hospital Association (MHA) and the Maryland Independent College and University Association (MICUA) Concerning the 2010 Nonprofit Assessment Agreement, June 10, 2010, *available at* http://www.baltimorecity.gov.

Davis, Paul, and Alisha A. Pina, "Providence Mayor Targets 9 Nonprofits for Tax Collection," *The Providence Journal*, May 8, 2011.

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.

Gallagher, Janne, 2002, "The Legal Structure of the Property Tax Exemption," In *Property-Tax Exemption for Charities: Mapping the Battlefield,*, ed. Evelyn Brody, 3-22. Washington, D.C.: Urban Institute Press.

Hoene, Christopher W., 2009, "City Budget Shortfalls and Responses: Projections for 2010-2012, Washington, D.C.: National League of Cities.

Hoene, Christopher W., and Michael A. Pagano, 2010, "Research Brief: City Fiscal Conditions in 2010," Washington, D.C.: National League of Cities.

Hurley-Schubert, Victoria, "Politician Links PILOT to Zoning," *The Princeton Packet*, Mar. 25, 2011.

Kenyon, Daphne A., and Adam H. Langley, 2010, "Payments in Lieu of Taxes: Balancing Municipal and Nonprofit Interests," Cambridge, Mass.: Lincoln Institute of Land Policy.

Knapp, Krystal, "Princeton University Is Sued by Borough Residents Over Tax-Exempt Buildings," Blog.nj.com, Apr. 15, 2011.

Kotsopoulos, Nick, "College Will Aid Library; MCPHS Payment in Lieu of Taxes," *Worcester Telegram & Gazette*, Nov. 28, 2008.

Kotsopoulos, Nick, "WPI Offers City $9M Over 25 Years; Payment-in-lieu-of-taxes Agreement," *Worcester Telegram & Gazette*, May 13, 2009.

Kotsopoulos, Nick, "Clark to Pay City $6.7 M; College to Pay Worcester $262,000 annual," *Worcester Telegram & Gazette*, Sept. 20, 2010.

Light, Paul C., "Fact Sheet on the Continued Crisis in Charitable Confidence," Brookings Institution, Sept. 13, 2004.

Leland, Pamela, 2002. "PILOTs: The Large City Experience," In *Property Tax Exemption for Charities: Mapping the Battlefield*, ed. Evelyn Brody, 193-210, Washington, D.C.: The Urban Institute Press.

Light, Paul C., "How Americans View Charities: A Report on Charitable Confidence," Brookings Institution, April 2008.

Lipman, Harvy, 2006, "The Value of a Tax Break," *The Chronicle of Philanthropy* 19(4): 13.

Lustig, Eric A., 2010, "The Boston City PILOT Task Force: An Emerging Best Practice?" *New England Law Review,* Vol. 44.

Lutz, Byron F., 2008, "The Connection Between House Price Appreciation and Property Tax Revenues," *National Tax Journal* 61(3): 555-572.

Marcelo, Philip, "Providence Needs Tax Alliance with Colleges, Hospitals, Report Says," *The Providence Journal*. Nov. 15, 2010.

Marcelo, Philip, "Providence Looking for More from Nonprofit Institutions," *The Providence Journal*, May 12, 2009.

Marlantes, Liz, "Why America Won't Raise Taxes," *The Christian Science Monitor*, Apr. 11, 2011.

McArdle, Regina, and Donna Demirai, A study of charitable and educational property tax exemptions, *City and Town*, January 2004, Massachusetts Department of Revenue, Division of Local Services, *available at* http://www.mass.gov/Ador/docs/dls/publ/ct/2004/january.pdf

Murphy, Stephen, "Boston Will Face Budgetary Challenges in the New Fiscal Year," Backbay-.patch.com, Nov. 21, 2010.

New Orleans Tax Fairness Commission, Resolution on Executive Order 10-07, Apr. 1, 2011.

O'Brien, Michael V., Strategies for a Workable PILOT Program in Your Community, Presentation given to annual meeting of the Massachusetts Municipal Association, Jan. 21, 2011, *available at* http://www.mma.org/images/stories/AnnualMtg/2011workshop_handouts/wo rcester_pilot_presentation_2011.pdf.

Office of Mayor Stephanie Rawlings-Blake, "Mayor Rawlings-Blake Introduces Comprehensive Budget Plan," City of Baltimore, Apr. 12, 2010, *available at* http://www.baltimorecity.gov/OfficeoftheMayor.

Pina, Alisha A., "Doubts Raised on Taveras Providence Budget," *The Providence Journal*, May 4, 2011.

Providence City Council, "A Call to Build the Capital City Partnership for Economic Growth," Report to the Providence City Council from the Commission to Study Tax-Exempt Institutions, November 2010.

Rezendes, Michael, "City Sends "Tax" Bills to Major Nonprofits," *The Boston Globe*, Apr. 24, 2011.

Salamon, Lester M., Stephanie L. Geller, and S. Wojciech Sokolowski, 2011, "Taxing the Tax-Exempt Sector — A Growing Danger for Nonprofit Organizations," Communique no. 21. Johns Hopkins University Center for Civil Society Studies.

Stanton, Mike, "After 60 Days in Office, Providence Mayor Taveras Going Strong," *The Providence Journal*, Mar. 13, 2011.

Urbina, Ian, "Pittsburgh Mayor Strikes a Deal to Abandon Tuition Tax," *The New York Times*, Dec. 22, 2009.

Worcester Regional Research Bureau, 2004, "Will PILOTs Fly in Worcester? Taxing Nonprofits and Other Options, Mar. 24, 2004, *available at* http://www.wrrb.org/files/downloads/reports/eco_dev/2004/04-04pilot.pdf.

Worcester Telegram & Gazette, "WPI and PILOT; Smooth Landing for $9 Million," May 14, 2009.✰

(C) Tax Analysts 2011. All rights reserved. Tax Analysts does not claim copyright in any public domain or third party content.