

**November 15, 2013 Meeting of the Nonprofit Tax Review Task Force  
Minutes**

(Prepared by Kathleen Hamel, DAFS/MRS)

**Members Present:**

H. Sawin Millett, Jr., Chair  
Senator Rebecca Millett  
Senator Patrick Flood  
Representative L. Gary Knight  
Representative Michael Carey  
Joseph Grube  
Arthur Blank  
Brenda Peluso  
James Libby

**Members Absent:**

None.

**Overview**

- Commissioner Millett asked the members to briefly introduce themselves for the benefit of the members who were unable to attend the first meeting.
- The minutes (summary prepared by Geoff Herman of MMA) of the October 30, 2013 meeting were reviewed. Brenda Peluso asked for a correction to one of the bullet points of her presentation: “Typically, the larger the nonprofit organizations, the larger the share of government subsidy payment.” The minutes were accepted with this correction.
- Information requested at 10/30/13 meeting –

Mike Allen provided and reviewed a handout prepared by John Sagaser, Legal Counsel, of the constitutional provisions relevant to the taxation of real and personal property. The relevant articles of the Maine Constitution and US Constitution were cited.

Geoff Herman provided a handout of the review of actual PILOT and PILOT-type programs currently in effect. Information was obtained from a 2008 survey of municipalities conducted by MMA and recent follow-up inquiries he made to the cities of Waterville, Augusta, Portland and Brunswick. The data shows that the majority of PILOTs are from low income housing facilities. Geoff pointed out that a municipality must have an ordinance in place to mandate service charges.

The members discussed the benefits nonprofits provide to the communities, such as hospitals collaborating in emergency preparedness and other nonprofits offering services that the municipalities are unable to provide. Throughout the discussion, Lewiston was used as an example with its 2 big hospitals and Bates College. These provide many jobs for area residents. However, Joe Grube pointed out that nonprofits generally keep expanding (example; hospitals developing office complexes) which results in more property being taken off the tax rolls. He said there is no shortage of nonprofits setting up in Lewiston. 38 nonprofit group homes have opened in recent years.

Commissioner Millett asked the Task Force if modifications or amendments should be made to the statutes (M.R.S. 36 §508 Service charges; §652 Property of institutions and organizations.)

A service charge is not a tax; the trick is to calculate the charge in a way that is fair, consistent and won't be challenged in court.

LD 936, *An Act to Authorize Municipalities To Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations*, sponsored by Representative Kathleen Chase, has been carried over to the Second Session of the 126<sup>th</sup> Legislature.

### **Information from IRS 990 Returns Filed from Maine**

- Mike Allen provided a handout of data obtained from the Internal Revenue Service and the National Center for Charitable Statistics at the Urban Institute. The data showed the number of Maine-based nonprofits, broken down by category, and the amount of assets and revenues reported by each.

### **Section AA-4 Duties**

Some members seemed reluctant to take on issues that might better be handled in a forum of overall tax reform. Senator Flood reminded the members that the Nonprofit Tax Review Task Force was created as a result of the urgent budget crisis. Ultimately, the Legislature temporarily increased the rates of sales, meals and lodging taxes to balance the budget instead of further decreasing Municipal Revenue Sharing. However, it was agreed that this issue still needs to be fully examined and the Part AA Task Force was established and charged with these duties. Commissioner Millett stated that the Appropriations and Taxation Committees will be expecting to see a report in December so the Task Force needs to fulfill its obligations. There was more discussion on “feasibility and desirability”, temporary or long term and state or local level taxation.

Commissioner Millett asked the Task Force to hold in abeyance the terms “feasibility and desirability” and the finding of \$100 million for Revenue Sharing and remember that the Task Force will be making recommendations only, not the final decisions. Could the members determine, 1A – does the committee want to recommend a temporary or long

term tax? And 1B – does the committee want to recommend a state or local level of taxation? Senator Rebecca Millett responded that she would like to see any recommendations be for a long term and at the local level. Commissioner Millett then asked for a show of hands for all those favoring a long term recommendation (1A). All members responded in favor. The Task Force then discussed whether the taxation should be at the state or local level (1B), with the general agreement that it should be local. While the nonprofits benefit the surrounding communities, it is the host municipalities that are bearing the brunt of the burden. There is a correlation between high mil rates and a concentration of nonprofits in a municipality. There was also discussion on tax base sharing arrangements between municipalities and credit-enhancing TIFs.

### **Agenda for Next Meeting**

Commissioner Millett asked Mike Allen and Geoff Herman to get copies of the relevant statutes for tax base sharing and inter-local sharing for the next meeting. He suggested the agenda for the next meeting be:

- 1) Discussion of tax base and inter-local sharing
- 2) Define “certain nonprofits”
- 3) Discuss “value basis” for assessments

The next meeting of the Nonprofit Tax Review Task Force will be on Wednesday, November 20, 2013, 1:00 – 4:00 in Room 127, the Taxation Committee Room.