ALLEGHENY INSTITUTE FOR PUBLIC POLICY

September 2, 2014 **Policy Brief: Volume 14, Number 42**

Will Tax for Distressed Municipalities Bypass Pittsburgh?

The General Assembly is debating changes to the municipal financial distress statute, Act 47 of 1987. It wants to use early intervention to keep municipalities out of distress and provide options for disincorporation of non-viable municipalities, but primarily it wants to have municipalities get out of their distressed status faster (seven municipalities have exited Act 47 status to date; half of the twenty communities currently in Act 47 distress entered between 1987 and 1995.)

A major amendment being considered is to create options for municipalities in distressed status to raise revenue. One of these options would be to allow distressed municipalities to raise the Local Services Tax (LST) beyond the current limit of $52.

Municipalities (with the exception of Philadelphia) are permitted to levy a maximum rate of $52 a year on people engaged in an occupation within the municipality (residents and non-residents). The law exempts people making less than $12,000 a year from having to pay it, has guidelines for people working in multiple municipalities during a year, and what municipalities must use the money for (25% must go to emergency services like police, fire protection, and ambulance services, and other uses are spelled out).

Unlike 2004, when all municipalities were given the ability to increase the LST (at the time the tax was known as the Occupational Privilege Tax), the proposed Act 47 reforms would affect only municipalities in distressed status, and only for as long as they remain in distressed status. They will be allowed to raise it to a maximum $156 per year with court approval. A distressed municipality that opts to raise the LST would be required to increase the income exemption to $15,600 and would have to forego any attempt to boost its wage tax while in distressed status.

Pittsburgh is in Act 47, but as of now the City would be barred from raising the LST because the proposed law says the permission "…does not apply to a municipality, which, on the effective date of this subsection, is not authorized to petition the court of common pleas for the imposition of an earned income tax on non-residents". This language hearkens back to Act 222, which prohibits Pittsburgh from asking for a higher earned income tax rate under Act 47 so long as the ICA (Intergovernmental Cooperation Authority) is in existence. The City levies the LST at the maximum $52 rate now and collects around $14 million. That means approximately 270,000 people—both residents and non-residents—work and pay the tax in the City. Thus, at a yearly tax of $156 and no change in the number of people employed who are earning the slightly higher required minimum in the City would net the City an additional $28 million annually.

Quotes from Pittsburgh's local officials and staff as well as members of the legislative delegation representing the City are not happy with the LST exclusion. Why should Pittsburgh be treated differently from any other distressed municipality, they ask? And, after all, one could argue that the original idea for raising what was then the Occupational Privilege Tax from $10 to $145 was made in the first recovery plan for Pittsburgh back in 2004, so it would seem to be a singular rebuke to refuse Pittsburgh permission to impose the higher LST tax rate.

Of course, the City's advocates want a higher LST as it would represent a substantial commuter tax since a sizable number of the employees in Pittsburgh live outside the City, probably about half. Hence, the commuting workers would pay a large share of the increase in LST tax revenue. These advocates claim and have claimed for many years that non-resident workers and visitors do not pay enough in taxes to cover the cost of the services they use while in the City.

Could that claim be true? We have never seen a thorough in depth, independent study that demonstrates it to be true. This is a study the Mayor and Council should commission. If it can be demonstrated rigorously and defensibly that non-residents are not paying enough in taxes to cover the services they use, the study would be a powerful tool to use to lobby Harrisburg for more City taxing authority to collect revenue from out-of-towners.

However, such evidence might prove difficult to find in light of the money and benefits the City receives from taxes levied on non-residents. Directly, non-residents are paying a hefty parking tax. Before the August 1 price increases, the parking tax provided the City with $50 million in revenue. It is safe to estimate that out-of-towners are paying half of the amount and very likely more than half. County residents and visitors to the County are paying the RAD sales tax, the revenue from which disproportionately benefits the City through the support of museums, entertainment amenities, new professional sports stadiums as well as direct sharing of revenue.

From the Rivers Casino the City gets about $10 million as a host fee and $7.5 million to help pay for the new Penguins arena. The County hotel tax is a principal source of funding for the new convention center. The City collects an amusement tax, paid heavily by non-residents. Moreover, visitors and commuters spend a lot of money in Pittsburgh that supports businesses who in turn pay substantial amounts of taxes to the City. Pittsburgh owes it to these non-residents to explain the costs of services they use before they ask for even more money from them.

In addition, the state allowed for specific changes to Pittsburgh's tax structure at the time of the 2004 LST increase including the institution of a payroll preparation tax to eliminate the mercantile and business privilege taxes, a facility usage fee on performers using publicly funded facilities, the shift of a quarter of a percentage point of the earned income tax from the school district to the City, and ended the City's payment of $4 million in RAD funds to the schools as a replacement for the personal property tax.

The primary question facing legislators is; will the state consider allowing Pittsburgh to use the higher LST rate if it reduced other taxes to maintain revenue neutrality? Seems like a strange compromise, and one that, if given the choice, the City probably would not accept simply because the boost in the LST would last only until the City exited Act 47.

Ironically, if the state had accepted the recommendations of Pittsburgh's Act 47 team when they said the City should be removed from distressed status any statutory revisions to the LST would be of no effect on Pittsburgh. If the ICA is terminated and the City remains in Act 47, then the prohibitions contained in Act 222 about the earned income tax would go away, and thus so too would the prohibition on Pittsburgh considering a higher LST—or to impose an earned income tax on non-residents working in the City.

But most importantly, it is worth noting again—as we are wont to do frequently—how far Pittsburgh spending per capita is above the spending of well managed cities. Thus, before any talk of higher taxes or more taxing authority is proposed to the Legislature, the City needs to deal with its spending problem by lowering outlays for several years. Act 47 coordinators ought to be aggressively working to find spending reduction possibilities such as outsourcing, possibly with the County as well as with private firms. This is especially true because of the pension situation. Always seeking to raise revenues is not a sustainable solution unless the revenues come through economic and tax base growth in the City and not new taxes or higher rates on existing taxes. City schools are desperate for cash as well and higher tax rates for them seem inevitable.

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