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An old tax idea is resurrected

Summary: Pittsburgh City Councilman Ricky Burgess recently introduced a bill that would levy a 1 percent tax on consumers of higher education and medical services within the City of Pittsburgh. This is similar to a bill introduced in 2009 which only sought to tax higher education. That bill never made it out of the council and resulted in some of the city's nonprofit institutions negotiating a payment-in-lieu of taxes (PILOT) agreement. At the time, the city was in Act 47 financial distress status and state oversight and was grasping for any revenue stream it could find.

Thirteen years later, the excuse is infrastructure repairs in light of the bridge collapse over Fern Hollow. It remains to be seen if this tax proposal makes its way to ratification or if the purpose is to once again extort money from the educational and medical institutions that call Pittsburgh home. A resolution to move toward PILOT agreements was introduced to council one week later.

Comparing the proposals

In 2009, then-Mayor Luke Ravenstahl proposed instituting a post-secondary education privilege tax of 1 percent on tuition. As *Policy Brief, Vol. 9, No. 69,* noted at the time, "The Mayor's plan derives from Act 511, the state law granting permission to municipalities the right to tax certain privileges." The city had a business privilege and occupational privilege tax and by 2009 those were replaced by the payroll preparation tax and the local services tax. And since going to college in the city was also a "privilege," it should be taxed as well. But as was argued in that *Brief,* those privilege taxes were based on earnings and simply not one's presence.

The Burgess proposal also contains a "medical facilities user" privilege component. This would tax medical services rendered in the city at 1 percent—again taxing the presence of someone using a medical facility, not on any earnings.

In both proposals, the city Treasurer's Office would collect the tax and administer any fines and penalties. The only difference is that, under the new proposal, city taxpayers subject to the tax would be eligible for credit against their wage taxes, so this would primarily fall on non-city residents—those who don't vote for city officials.

State law authorization

As mentioned above, Act 511, known as the Local Tax Enabling Act (53 PS 6924), provides a list of certain items/activities municipalities are forbidden to tax. There are 17 such prohibitions (*Policy Brief, Vol. 9, No. 75*). However, taxing tuition and medical facilities usage are not among the restrictions. After the 2009 proposal, there was an attempt to amend Act 511 to explicitly ban the ability to levy, assess or collect a tax on higher education tuition. There was also an attempt to amend the Tax Reform Code of 1971 to do the same. Neither attempt was successful, abandoned when the tuition tax failed to advance in City Council.

Pittsburgh's financial position

In 2009, the city was in Act 47 financial distress and under financial oversight and looking to increase revenues wherever possible. But as we noted in a report and subsequent *Briefs*, the most recent, *Vol. 19, No. 25,* was released before the pandemic, comparing Pittsburgh's spending with a composite benchmark city, Pittsburgh has been well out of line with areas such as personnel, spending and legacy costs.

That *Brief*, looking at 2018 data, showed Pittsburgh had declining overall population and declining school enrollment. Pittsburgh's total city revenue per capita was 50 percent higher than the benchmark city ($2,111 vs. $1,406) with per capita total taxes almost 70 percent higher ($1,611 vs. $953). But more importantly, per capita total expenditures were 51 percent higher ($2,238 vs. $1,478). These gaps have persisted since the first benchmark study in 2004.

Pittsburgh's workforce has also been much higher than the benchmark city. When looking at total employees per 1,000 residents, Pittsburgh came in at 11.0 while the benchmark city had just 7.5—a 47 percent difference. Similar gaps exist for police (40 percent higher) and fire employees (38 percent higher).

The implication is simple: work to lower costs for city operations and there should be enough money from existing sources to manage the infrastructure requirements of the city.

The pandemic was difficult on all aspects of life; government finances were no exception. However, the federal government pumped stimulus money to state and local governmental entities to assist with any shortfalls. In *Policy Brief, Vol. 21, No. 36,* the stimulus funds were analyzed.

Pittsburgh, by its size, did not qualify for a direct CARES Act distribution but did receive $6.2 million from Allegheny County's share. In the American Rescue Plan, the city received a more generous distribution of $335.1 million. A task force recommended how to allocate the money and decided to designate $59.9 million for the capital budget; infrastructure repairs from that money include $2 million for a pedestrian bridge in 2023. The 2022 capital budget has $7.3 million for projects where "bridge" is mentioned. It is also worth noting that the U.S. Department of Transportation has pledged $25.3 million to the reconstruction of the Fern Hollow bridge, estimated to be more than enough to cover costs.

New resolution

This proposal has met with resistance in the education and health care communities. As mentioned above the 2009 proposal never made it out of the council but did result in a PILOT agreement that lasted for a few years. Is this latest incarnation another attempt at coercing money out of the hospitals and universities?

It must have been, given that one week later a separate resolution was presented to council that would not directly tax tuition or medical expenses but would instead direct the Director of the Finance Department and the City Solicitor to determine the fair market value of land and buildings owned by tax-exempt institutions and what those institutions would be paying in payroll preparation taxes if they were for-profit businesses and use that to determine the starting point for PILOT negotiations.

Based on the 2022 certified assessment roll the city has $31.8 billion in taxable and exempt value with the latter accounting for $11.6 billion (36 percent) of the total. There are 142,642 parcels in the city. The resolution notes that an estimated 500 parcels with an assessed value of $3.7 billion are owned by colleges and hospitals. If subject to property taxes, that amount would generate around $33 million for the city based on its millage rate and special levies for parks and libraries.

The findings are to be delivered within 60 days of the effective date of the resolution. PILOT agreements are to be negotiated by the mayor (or a designee), the council president and the City Controller (or designees if the mayor approves) and be based on the value of 50 percent of the real estate holdings or 75 percent of the payroll preparation tax liability or "a combination of the two" of a tax-exempt institution.

In the 2022 operating budget approved prior to these proposals the city expects $151.4 million in property tax revenue, $66.1 million in payroll preparation tax revenue and $0.4 million in nonprofit contributions, which the budget notes does not include money from "the city's large multi-billion dollar 'Institutions of Purely Public Charity'."

Conclusion

While the Burgess proposal may be moot, it was a cudgel used by a councilman to put pressure on nonprofits operating in the city. One way to curtail such future proposals is to amend Act 511 to prohibit such taxation. The Legislature needs to add to the list of prohibitions the inability to tax someone based on their presence. They failed before; they must be more diligent this time. If Pittsburgh does it, every small town with a college will seek to do the same.

Pennsylvania already has a reputation as a tax-unfriendly state and it is inhibiting economic growth, population and economic development. Allowing municipalities the ability to tax someone for attending higher education or a health care visit would send a terrible message and slow progress even more.

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