

POLICY BRIEF

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Airport Debt or County Investment?

It seemed simple enough: the veritable bonanza of gaming money would be an opportunity for atonement for past grandiose plans gone awry and could help pay off some old debts. One debt needing assistance for repayment was the over \$500 million owed on Pittsburgh International Airport by the County Airport Authority. As part of the gaming legislation enacted in 2004 and amended in 2007, \$150 million was earmarked for debt repayment at the Airport.

Then the rumblings began: the County was owed \$42 million by the Airport Authority, we were told, for the money the County put into construction of the new airport facilities. So the County should get the money owed them first, the Executive said, and thanks to a last minute amendment to the law that allocates the gaming dollars, the County intercepted the December payment of \$19.9 million. The money came without Council's knowledge. Then it was used to close a 2007 budget shortfall that Council had not been informed about.

In fact, over time the County will receive the whole \$150 million. However, the legislation clearly intends for the money to go to the Airport Authority for debt reduction after passing through the County's hands.

Now the Executive's zeal for grabbing money has infected Council, which just passed an ordinance calling for the Airport to make satisfactory arrangements to pay the County within 90 days (it is not clear whether the Council is counting the \$19.9 million already received from the gaming money or wants the entire \$42 million they claim the Authority owes the County). This despite the fact that neither the Airport Authority's audited financial statements nor the County's comprehensive financial statements have ever referred to the \$42 million as debt owed to the County. Moreover, the previous County Executive has stated that the money was supposed to be paid to the County from development on properties owned by the Airport but not part of the primary Airport complex.

The Council's ordinance says the \$42 million "is 'county debt' to be paid by the Authority pursuant to...the transfer agreement" (that created the Authority and moved the Airport to their jurisdiction). However, the Authority solicitor stated that the \$42 million is "not a debt. It is clearly set out...as an investment". That echoes a statement made by the Authority's Board Chairman who stated "all of the documents identifying the County's contribution to the development of the Pittsburgh International Airport midfield terminal clearly define that contribution as a public investment. This investment was to be repaid from revenues generated by development projects at the airport."

The Executive called the Council action "illegal". Now, that is a turn of events. The official who put this whole thing into motion by getting a member of the General Assembly to insert the

County intercept language into the gaming law and grabbed the first installment, claiming it to be money owed by the Airport Authority, has become the standard-bearer for doing things on the up and up. Bear in mind too that in 2004 the Executive went on and on about how the gaming money was to be used for paying down the County's airport debt only to use the December installment for the County budget. An installment that the Airport Authority certainly did not envision being paid in either 2007 or 2008 according to the October release of their 2008 budget. Why would Council members pay attention to the Executive's pronouncements now?

Obviously, settling this issue hangs on who is right about whether the \$42 million is a debt or an investment. Is it the officials at the Airport Authority who look at the \$42 million as an investment, or is it the Executive and Council who view the \$42 million as a debt they are entitled to be paid? The financial statement record favors the Airport officials. First, as pointed out above, neither the Airport's nor the County's audited financial statements show a \$42 million obligation owed to the County. Second, language in the County's audited financial statements going as far back as 2003 and most likely even further, all include the statement, "the County's *public investment* in PIT exceeds \$40 million" (emphasis added). Third, the County's 2006 comprehensive financial statement on liabilities and net assets of component units shows the Airport Authority owing \$1.4 million "due to primary government"—in other words, the County.

Since there is such disagreement by attorneys over the interpretation of Section 1.14 of the Transfer Agreement between the County and the Authority, this issue will probably end up in court. If, for example, the Executive vetoes the ordinance, as can be reasonably expected, and the bill becomes law over his veto, it is almost a certainty that the Airport Authority will challenge the ordinance in court.

On the other hand, if the Executive's veto is sustained, there is a strong likelihood that a suit will be brought by someone or some group asking the court for a ruling and clarification of the legal status of the claims made by Council in their recent ordinance. It is time to get this issue settled once and for all.

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