Identifying Success Indicators Among Pennsylvania Municipal PILOT Agreements

2020

Local Government Commission
General Assembly of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

Letter from the Chairman

Members of the General Assembly:

I am pleased to submit to you the following report on payments in lieu of taxation, or PILOTs, deployed as a tool by local taxing entities in the Commonwealth as a way for local governments to partner with tax-exempt entities. In ideal circumstances, voluntary agreements with tax-exempt entities can relieve a portion of the fiscal pressure to provide local services that benefit all residents, organizations and businesses which would otherwise be funded exclusively by local tax payers, while respecting the nature and benefits provided by tax-exempt entities.

This can, nevertheless, be a challenge. Organizations like healthcare institutions, universities, religious organizations and charities all provide benefits to the communities in which they are located and possess vastly different abilities to contribute toward municipal services. Negotiating PILOT agreements can be difficult and labor intensive, raising questions about fairness, services utilized and ability to pay.

To better understand this process, the Local Government Commission surveyed municipalities and county assessment offices throughout the Commonwealth on their experience with PILOT agreements, hoping to determine how national findings and best practices align with the challenges and opportunities of using PILOT agreements in Pennsylvania.

In brief, our study resulted in four conclusions:

- There is a strong relationship between PILOT success and higher participation rates and informed negotiations.
- Developing a PILOT requires resources that smaller municipalities may not have.
- There is a systemic lack of record keeping of PILOTs.
- There is not a one-size-fits-all approach to PILOTs.

These conclusions led us to make the following three recommendations:

- Municipalities should approach PILOT negotiations with a justifiable, specific dollar request, and a cooperative, collaborative attitude.
- Regional or cooperative efforts may provide support for negotiating and implementing PILOT agreements.
- A consistent method for documenting PILOT agreements and payments could benefit all parties involved.

It is my hope that this report provides valuable information on the current status of PILOTs to help educate and assist Members of the General Assembly on matters involving local government.

Sincerely,

Scott E. Hutchinson

Senator Scott E. Hutchinson
Chairman

Local Government Commission

The Local Government Commission is a bicameral, bipartisan legislative service agency of the Pennsylvania General Assembly. Created in 1935 by an Act of Assembly, it is one of the oldest agencies of its kind in the country. Five Senate Members and five House Members, appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, constitute the Commission. The ten Members, three from the majority party and two from the minority party in each chamber, collectively work by consensus for more effective and efficient local government.

The Commission serves as a specialized local government resource for Legislators, caucus staff, committee staff and constituents on inquiries, issues and legislation, providing objective expertise in many facets of local government. It takes on long-term complex projects, producing results that may be more difficult to achieve, or cannot be achieved, through caucus staff or advocacy groups alone. Commission Members, with the aid of staff, identify, draft and sponsor legislation to address local government issues, and review certain intergovernmental cooperation agreements as required by law.

The Commission provides a forum for statewide municipal associations, representing different types of municipalities and officials, to express their views directly before Legislators from both caucuses in the Senate and House. It works with these and other stakeholders in proposing legislation to advance more effective and efficient local government in Pennsylvania.

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Introduction

The Municipalities Financial Recovery Act, or Act 47, facilitates partnerships between the Commonwealth and communities struggling with ongoing fiscal and managerial challenges, with the ultimate goal of returning these communities to fiscal independence and stability. The path forward for many of these local governments and their leaders is, nevertheless, difficult in many cases. For some, reforming municipal services, implementing better financial controls, and deploying good management practices are dwarfed by regional economic realities and the limitations posed by the unique tax base in each community, from which its leaders are expected to fund the majority of its services.

In 2013, the Local Government Commission convened a task force in an effort to revisit Act 47, improve deficiencies in the statute, and seek to enhance the overall operation of the program. Among the stated goals of that task force were to move distressed communities through the benefits of the program and then return to normal operations as quickly as possible – both to conserve program resources and to allow communities to shed the stigma of distress. Numerous task force participants raised concerns about the strain that tax-exempt property could place on municipal finances, noting that many distressed communities ranked among the communities with the highest rates of tax-exempt property in the Commonwealth. The final task force report noted that tax-exempt properties in Act 47 cities such as Harrisburg and Johnstown could exceed half of the city's assessed value of property.[1]

A committee of the task force on Community and Economic Development and Tax-exempt Property considered options to increase the municipal revenues which could help offset the impact of tax-exempt properties, including enacting a freestanding funding mechanism for municipalities with high rates of tax-exempt property,[2] establishing a tax-sharing program to keep some earned income tax revenues in municipalities with high rates of tax-exempt property,[3] require coordinators serving distressed communities to review tax-exempt properties for continued tax-exempt status,[4] and allowing distressed communities to utilize a higher local services tax as a part of recovery that is paid by employees of tax-exempt and for profit entities alike.[5] Ultimately, empowering the coordinator to investigate tax-exempt status,

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[1] Act 47 of 1987 Municipalities Financial Recovery Act 2013 Task Force Report. Local Government Commission (Oct. 16, 2013), p. 29.

[2] *Id* p. 44.

[3] *Id* p. 40.

[4] *Id* p. 46.

[5] *Id.*

negotiate and solicit payments by tax-exempt entities, and the authorization for a $156 local services tax were adopted in the subsequent revisions of Act 47.[6]

In 2018, several years after the revisions to Act 47 were implemented, the Local Government Commission solicited brief feedback from stakeholder organizations that represented or served distressed communities with the goal of better understanding the areas that required additional effort. Every organization that responded sought solutions that would help address tax-exempt properties and the impact they pose on service delivery by municipalities in the Commonwealth. Stakeholder suggestions to address the challenge varied. Some suggested employing alternative tax models, increasing leverage to obtain payments from tax-exempt entities based on models in other states, and using state revenues to reimburse municipalities for providing services to tax-exempt entities. Overall, however, the message was clear: distress is affected by the need to provide services to tax-exempt entities, and existing efforts to obtain contributions from those entities were limited in their success.

We also recognized that these comments were not unique to the fifteen to twenty communities in the Act 47 program at any given time, but exist in varying degrees across communities trying to stretch municipal budgets throughout the Commonwealth. If the Local Government Commission could meaningfully advance recommendations or legislative solutions in this area, it would first need to assess the strategies implemented in the Commonwealth today, and where those strategies succeeded and fell short.

[6] *See* Act of July 10, 1987 (P.L. 246, No. 47), known as the "Municipalities Financial Recovery Act", sections 221(e)(2)-(3), 123(d), respectively.

Background

Institutions of purely public charity[7] are exempt from property taxation in all 50 states.[8] Most states establish constitutional and statutory standards that charitable institutions must satisfy to qualify for a property tax exemption. In Pennsylvania, only that portion of real property actually and regularly used for the purposes of the purely public charity is permitted to be exempt.[9] The appellate courts of the Commonwealth have, and continue to, refine the constitutional and statutory standards for exemptions.[10]

Arguably, many charitable institutions contribute to political subdivisions by offering services that benefit the communities, but these organizations may also create a financial burden to political subdivisions by consuming public services, such as fire and police, and decreasing the property tax base. In 2015, the PEW Charitable Trusts (PEW) identified more than 1.5 million 501(c)(3) nonprofits in the United States with combined assets exceeding 5 trillion dollars.[11] Not all of these nonprofits necessarily will qualify for property tax exemptions at the local level, but a growing number of political subdivisions with a large amount of tax-exempt property have shown interest in pursuing payments in lieu of taxes with nonprofits due to mounting pressures to find new revenues.

A payment in lieu of taxes, commonly referred to as a PILOT, is a voluntary agreement or contract in which an institution of purely public charity agrees to compensate political subdivisions in part for real property that is tax-exempt.[12] Examples of nonprofit charitable organizations include hospitals, private educational institutions, churches, volunteer fire and rescue stations and museums. PILOT payments are intended to help defray some of the cost of local government services such as fire and police protection and capital improvements, or to offset the tax revenue lost when the property was removed from the tax rolls. A PILOT may also be in the form of providing certain public services to the political subdivision.

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[7] Commonly referred to as nonprofit institutions and organizations.

[8] Kenyon, Daphne A. and Langley, Adam H., "Payment in Lieu of Taxes: Balancing Municipal and Nonprofit Interests," Lincoln Institute of Land Policy, Cambridge, MA, 2010, p. 2. (Hereinafter, Kenyon 2010).

[9] Pa. Const. art. XIII, § 2 (a) (v).

[10] *See* infra, n. 12 and accompanying text.

[11] Povich, Elaine S., "Should Nonprofits Have to Pay Taxes?", PEW Charitable Trusts, Washington, D.C., March 5, 2015, https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/3/05/should-nonprofits-have-to-pay-taxes (accessed 2/26/2020). Asset total was determined using data collected from the Internal Revenue Service Form 990 Return of Organization Exempt from Income Tax.

[12] The Pennsylvania Supreme Court in *Hospital Utilization Project v. Commonwealth*, 507 Pa. 1 (1985) (*HUP*) developed a five-part test purpose of defining a purely public charity. The five factors are: (1) advances a charitable purpose; (2) donates or renders gratuitously a substantial portion of its services; (3) benefits a substantial and indefinite class of persons who are legitimate subjects of charity; (4) relieves the government of some of its burden; and (5) operates entirely free from private profit motive. Even with the creation of the five-part "test" by the Pennsylvania Supreme Court in *HUP*, varying court decisions followed due, in part, to difficulty in reconciling the various exemption provisions in the assessment laws.

The Institutions of Purely Public Charities Act[13] (IPPCA) preserves and encourages, but does not require, voluntary agreements or PILOTs.[14] The act provides, among other things, a framework for the execution of voluntary agreements[15] between political subdivisions and "financially secure"[16] institutions of purely public charity. The contributions collected from these voluntary agreements may be shared between multiple political subdivisions, provided all parties agree to the sharing.[17] Institutions also have the option of forming public service foundations, which collect contributions from the institution and then provide funding to political subdivisions. If an institution is involved in a public service foundation, the political subdivision is not permitted to seek a voluntary agreement with the institution directly.[18] Both the voluntary agreements and the public service foundation contributions must be used "to help ensure that essential governmental, public or community services will continue to be provided in a manner that will permit an institution to continue to fulfill its charitable mission."[19]

As a cautionary note, care should be taken in the manner in which PILOTs are solicited, calculated and enforced. Courts may decide that they are too similar to taxes, and nullify the PILOT agreement:

> Because the PILOTs were calculated and billed like taxes and were not linked to the taxing authority's supply of needed services, this [PA Commonwealth] Court concludes that the PILOTS were the equivalent of real property taxes, merely disguised as payments for municipal services. Liability for the payment of taxes in Pennsylvania arises not by reason of a contractual relationship between the taxing body and the taxable, but strictly by operation of law, and the law is well established that taxes can be collected only as provided by statute. Moreover, pursuant to the Pennsylvania Constitution, the power to determine which property shall be subject to taxation and which shall be exempt from taxation is, subject to certain limitations, vested exclusively in the General Assembly.[20]

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[13] 1997, P.L. 508, No. 55 (10 P.S. §§ 371-385). The IPPCA superficially incorporates the five-point *HUP* test, but significantly redefines the method by which each of the five tests is met and adds other requirements.

[14] IPPCA § 2(a) (7); § 7 (d), (e).

[15] IPPCA § 3: "Voluntary agreement." An agreement, contract or other arrangement for the purpose of receiving contributions pursuant to section 7 between a political subdivision and an institution seeking or possessing an exemption as an institution of purely public charity. These contributions are for the purpose of defraying some of the cost of various local government services. The term includes the establishment of public service foundations by institutions of purely public charity.

[16] The IPPCA does not define the term.

[17] IPPCA § 7(a).

[18] IPPCA § 7(b).

[19] *Id.*

[20] *Sch. Dist. of City of Monessen v. Farnham & Pfile Co.*, 878 A.2d 142, 152 (Pa. Commw. Ct. 2005) (Citations omitted).

Despite broad guidance provided by the IPPCA, there is no standardization for the manner in which voluntary payments are calculated, paid, and recorded in Pennsylvania. Thus, it is difficult to determine if an institution of purely public charity makes PILOT payments, and if so, how much.

In addition to voluntary agreements and public service foundations as set forth in the IPPCA, there are PILOTs established in other laws to enable the federal and state government to offset some of the revenue loss to political subdivisions from immune properties. Unlike tax-exempt property which is deemed to be taxable unless otherwise provided for by law, immune properties, such as federal, state or local government property, are free from taxation unless otherwise authorized by statute.[21] Per the Pennsylvania Fiscal Code, the state will make PILOTs to political subdivisions for land owned by the Department of Conservation and Natural Resources (DCNR), Pennsylvania Game Commission (PGC) and the Pennsylvania Fish and Boat Commission (PFBC). DCNR makes payments of $2.00 per acre to each county, school district, and township where real property is owned, while PGC and PFBC make payments of $1.20 per acre.[22] Similar payments are made at the federal level to political subdivisions for property owned by the Department of the Interior[23] located within their boundaries.

Literature Review

Absent comprehensive, nationwide data on the use of PILOTs[24] by political subdivisions, individual studies provide a snapshot of the use and effectiveness of PILOTs in various states and localities. The Lincoln Institute of Land Policy (Lincoln Institute) sponsored three national studies, in 2010, 2012, and 2016, to discern nationwide trends in PILOTs in various states and "local jurisdictions". In the 2010 research, the Lincoln Institute analyzed case studies of four cities in the Northeast and used their findings to make recommendations and present arguments in favor and in opposition to PILOT programs.[25] Their research findings in 2012 represented 599 "local jurisdictions" with the largest nonprofit sectors. The report concluded that a minimum of 218 localities in at least 28 states had been receiving PILOT payments

[21] See *Lehigh-Northampton Airport Authority v. Lehigh County Bd. Of Assessment Appeals*, 888 A.2d 1168 (Pa. 2005). As in the case of institutions of purely public charity, the ultimate exemption or immunity of property from taxation may depend on whether the actual use of the property is consistent with the public purpose of the exempt or immune entity. *Id*. at 1179.

[22] 72 P.S. § 1798.1-E(b).

[23] 31 U.S.C.A. Ch 69.

[24] According to the Lincoln Institute of Land Policy, obtaining PILOT information is a challenge for a number of reasons. Political subdivisions that enter into a payment arrangement do not always use the term PILOT. Alternatively, some governments apply the term PILOT to a type of payment from a governmental or for-profit entity to a municipality as a substitute for full property taxes. It is easier to obtain information on broadly applied PILOT programs, but more difficult to obtain information on PILOTs made by single institutions under ad hoc or short-lived agreements. Also, parties to the transaction may not be willing to the make the PILOT details public. Kenyon 2010, p. 20.

[25] Kenyon 2010.

producing, in total, more than 92 million per year.[26] Often clustered in center cities and college towns, the vast amount of PILOT programs (75-80 percent) are concentrated in the Northeastern states where political subdivisions are more reliant on the property tax as a revenue source than other parts of the country.[27] The Lincoln Institute's 2016 Policy Brief listed colleges and hospitals as the largest contributors of PILOT revenue.[28]

PROs and CONs of PILOTs

While PILOTs can provide much needed additional revenue for political subdivisions, there are benefits and drawbacks to consider before employing a PILOT program.[29]

PROs:

- **Nonprofits consume public services at comparable rates as non-tax-exempt property owners.** Charitable institutions use a wide range of local government services, including police and fire protection, roads and streets, traffic control and snow removal. PILOTs are one way for nonprofits to help cover their share of the costs for these services. Otherwise, local residents and businesses shoulder the financial burden to provide these services.

- **Provides for recovery of public service costs where they are incurred.** A common argument for charitable exemptions is they provide public benefits and therefore deserve a tax exemption. The Lincoln Institute counters "there is a geographic mismatch between the benefits and costs of nonprofit activities, with broadly dispersed benefits and highly concentrated costs."[30] For example, a hospital may offer medical treatments and research that benefit an entire state or the world as a whole, but the local costs of providing police and fire protection and other municipal services are borne by the local taxpayers.

- **Increases equity among nonprofits which do and do not own property.** Many nonprofits do not own property so they receive no benefit from a property tax exemption. Among those nonprofits that do own property, hospital and higher

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[26] Adam H. Langley, Daphne A. Kenyon, and Patricia C. Bailin, "Payments in Lieu of Taxes by Nonprofits: Which Nonprofits Make PILOTs and Which Localities Receive Them," Cambridge, MA, Lincoln Institute of Land Policy Working Paper, 2012. (Hereinafter, Langley 2012).

[27] *Id.*, p. 2.

[28] Lincoln Institute Policy Brief, 2016, https://www.lincolninst.edu/sites/default/files/pubfiles/nonprofit-pilots-policy-brief-v2_0.pdf (accessed 3.2.2020). (Hereinafter, Policy Brief, 2016).

[29] *Id.*

[30] *Id.*

education institutions receive a much greater tax savings than nonprofits that provide human services.[31]

CONs:

- **PILOT negotiations can lead to antagonistic relationships, are primarily engaged in outside of the public arena, and are ad hoc**. Political subdivisions may engage in heavy-handed pressure tactics to try to coerce nonprofits to make PILOTs. These tactics can erode relationships between government and nonprofit entities and mar each other's reputation. The Lincoln Institute found in its research that because PILOTs are voluntary, the amount of the payment is often determined in an ad hoc manner and determined out of the light of the public eye.

- **PILOT payments increases expenses for nonprofits that in turn may necessitate higher fees or lower levels of services**. There is the potential that nonprofits will have to raise revenues and/or cut services to cover the cost of PILOT payments. If the PILOT agreement is truly voluntary and not entered into out of coercion, the nonprofit likely will not make drastic operational or financial changes.

- **PILOT agreements, even when successfully implemented, provide limited municipal revenue**. Analysis of several cities nationwide shows the variance in revenue streams from PILOTs. Research by the Lincoln Institute in 2010 looked at PILOT revenue in eleven cities nationwide, and found that the PILOT revenue generated, as a share of the city's total budget, ranged from a low of 0.01% in Minneapolis, Minnesota, to a high of 4.77% in Bristol, Rhode Island. The median share of these cities was 0.66% of the total municipal budget.

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[31] Joseph J. Cordes. "Assessing the Nonprofit Property Tax Exemption: Should Nonprofit Entities Be Taxed for Using Local Public Goods?" Cambridge, MA, Lincoln Institute of Land Policy, 2012.

PILOT Contributions to Municipal Revenues[32]				
City	Revenue Generated	City Budget	Year	PILOT as % of Budget
Baltimore, MD	$5,000,000	$1,493,018,000	FY2001	0.33
Boston, MA	$15,685,743	$2,380,000,000	FY2009	0.66
Bristol, RI	$2,100,000	$44,017,031	FY2009	4.77
Butler, PA	$15,000	$8,442,098	FY2010	0.18
Cambridge, MA	$4,508,000	$466,749,012	FY2008	0.97
Detroit, MI	$4,160,000	$2,460,000,000	FY1998	0.17
Lebanon, NH	$1,280,085	$42,312,510	FY2010	3.03
Minneapolis, MN	$158,962	$1,400,000,000	FY2009	0.01
New Haven, CT	$7,500,000	$648,585,765	FY2010	1.16
Pittsburgh, PA	$4,416,667	$496,611,848	FY2007	0.89
Providence, RI	$2,500,000	$444,544,123	FY2010	0.56

The Boston Model

"Boston has one of the longest standing PILOT programs and the most revenue productive program in the country."[33] With a population over 670,000, the city is home to outstanding medical, educational and cultural institutions that play a significant role in the city and region's economy and job creation. Like many cities in the northeast and mid-Atlantic, Boston is heavily reliant on the property tax—more than half of its land area is tax-exempt.[34]

In 2009, Boston created a task force designed to create a more systemic PILOT program, as the current program was operating on an ad hoc basis and contributions were in many cases substantially lower than requests. PILOT payments varied significantly across Boston's nonprofit institutions. In addition to creating a more systemic program, the task force also worked to strengthen public-private relationships throughout the city. As a result of the task force's work, Boston implemented a revamped PILOT program in 2012.[35]

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[32] Kenyon 2010, p. 22.

[33] Kenyon 2010, p. 21.

[34] Includes city, state and federal government as well as private medical, educational and cultural institutions. Boston Municipal Research Bureau, "Boston's PILOT Program at Year 7," Boston, MA, March 4, 2019, p.3.

[35] In January 2011, the city adopted new guidelines for the PILOT program as recommended by the Mayor's PILOT Task Force. *See* Final Report and Recommendations.

The real estate value for tax-exempt institutions in fiscal year 2012 was $13.7 billion or 15.4% of Boston's total taxable market value.[36] Based on these values, the city sought a significant increase in voluntary PILOT contributions from the largest tax-exempt institutions[37] to be phased-in over five years so that by 2016 PILOT payments would reach 25 percent of what the institution would pay if taxable.[38] Institutions can reduce the voluntary cash contribution amount by up to 50 percent by providing proof of qualifying community benefits.[39] Community benefits that qualify for credit toward an institution's cash PILOT must be quantifiable contributions to society that accrue uniquely to Boston residents.[40]

In fiscal year 2018, Boston completed its seventh year of implementing the new PILOT program involving the city's largest nonprofit institutions. In 2018, the program generated $33.6 million, an increase of $18.5 million or 122% over actual receipts in fiscal year 2011, the last year of the former PILOT program.[41] The new PILOT program also has been successful in facilitating a more standardized and systemic approach to the manner in which exempt institutions contribute to the overall fiscal health of the city of Boston. Notwithstanding the successes of the PILOT program, the total payments by tax-exempt institutions have been below the city's goal.[42] In fiscal years 2017-19 (years 6-8 of the program), the city increased the PILOT request for most institutions by 2.5%.[43] In fiscal year 2019, the city's general fund budget relied on the property tax for 70 percent of its total operating revenue and 85 percent of the total revenue increase.[44]

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[36] Boston Municipal Research Bureau, "Boston's PILOT Program at Year 7," Boston, MA, March 4, 2019, p.2.

[37] Participants in the program include institutions from the *educational, medical and cultural* sectors that own property valued in *excess of $15 million*.

[38] City of Boston Payment In Lieu of Taxes (PILOT) Program, Fiscal Year 2018.

[39] *See example* of a Community Benefits Report.

[40] According to the Boston.gov website, in FY19, 38 institutions submitted PILOT Community Benefits reports totaling $157.4M and received $52.5M in community benefits credit. Institutions partnered with over 550 local organizations to implement these programs, https://www.boston.gov/sites/default/files/embed/file/2019-10/fy19_community_benefits_summary_report.pdf (accessed 3.2.2020).

[41] Boston Municipal Research Bureau, "Boston's PILOT Program at Year 7," Boston, MA, March 4, 2019, p.1.

[42] https://www.boston.gov/sites/default/files/embed/file/2019-08/fy19_pilotmetrics_to_be_posted_on_web_page_draft_1_new_format_8-28-19_narev1.pdf (accessed 3.2.2020).

[43] *Id.*, p. 5.

[44] Boston Municipal Research Bureau, "Boston's PILOT Program at Year 7," Boston, MA, March 4, 2019, p. 2.

Fiscal Year 2019* Combined PILOT Contributions[45]				
	Requested PILOT	Community Benefits Credit	Cash Contribution	% PILOT Request Met
Educational	$57,266,205	$25,909,339	$14,555,085	71%
Medical	$47,760,501	$24,625,768	$19,177,351	92%
Cultural	$4,108,542	$1,961,668	$455,493	59%
	$109,135,247	**$52,496,775**	**$34,187,928**	**79%**

*As of August 28, 2019

[45] https://www.boston.gov/sites/default/files/embed/file/2019-08/fy19_pilotmetrics_to_be_posted_on_web_page_draft_1_new_format_8-28-19_narev1.pdf (accessed 3.2.2020).

National Recommendations for PILOTs

In its extensive 2010 study of the largest PILOT programs nationwide, the Lincoln Institute issued various recommendations for implementing and structuring a PILOT program.[46]

TABLE 10
General Recommendations for Municipalities

Recommendation	Explanation
PILOTs are not appropriate for all municipalities.	PILOTs can provide crucial revenue for municipalities highly reliant on property tax revenue or with a significant share of total property value owned by tax-exempt nonprofits. In some cases, legal and administrative costs may outweigh the revenue potential.
PILOTs are not appropriate for all nonprofits.	Municipalities should focus on nonprofits owning large amounts of tax-exempt property and providing modest benefits to local residents relative to their tax savings.
Municipalities should work collaboratively with nonprofits when seeking PILOTs.	This should make local officials more aware of the benefits that nonprofits provide to local residents and the financial constraints they face. Nonprofits may offer suggestions that reduce the burden of PILOTs for their organizations, while still making a financial contribution to the local government.
Negotiating individual PILOT agreements is best for municipalities with few nonprofits.	Case-by-case negotiation enables consideration of the unique financial constraints for each nonprofit, but can lead to large discrepancies in PILOT amounts among similar nonprofits.
Systematic PILOT programs are best for municipalities with a large number of nonprofits.	This approach promotes horizontal equity among tax-exempt nonprofits, fosters transparency, makes payments more predictable, and may raise more revenue than negotiating individual agreements.
Consider alternatives to PILOTs.	Because of the serious pitfalls of PILOTs, alternatives should be considered, ranging from increased user fees to grants from the state to municipalities that host tax-exempt nonprofits.

TABLE 11
Recommendations for Systematic PILOT Programs

Recommendation	Explanation
Set a target for contributions.	A target is a useful starting point for negotiations, and may be based on the percentage of local government spending on services directly benefiting nonprofits.
Use a basis to calculate payments.	Using exempt property values as a basis promotes equity, while using square footage as a basis is easier to administer.
Make adjustments for community benefits.	Nonprofits should be able to reduce their cash payments in return for providing certain public services for local residents.
Consider soliciting PILOTs when property is taken off tax rolls.	Nonprofits avoid an unexpected new expense, and municipalities avoid facing a sudden drop in their tax base. However, this significantly erodes the revenue potential of PILOTs. Phasing in property tax exemptions over several years also achieves these goals.
Use a threshold to determine which nonprofits to include.	A threshold level of property value or annual revenues excludes nonprofits lacking the financial resources to make meaningful contributions.
Reach multiyear PILOT agreements.	Long-term agreements reduce uncertainty about future payments for both nonprofits and municipalities.

[46] Kenyon 2010, pp. 44-45.

Other Recommendations for Implementing PILOTs:[47]

- **Keep PILOTs voluntary and avoid undermining the charitable tax exemption itself.** The term "payment in lieu of taxes" may give the wrong message that the nonprofit should be paying taxes and undercut their tax-exempt status in future legal proceedings. The Lincoln Institute suggests that the terms "voluntary contributions" or "service fees" may be preferred by nonprofit institutions.

- **Communicate respectfully.** Partnership between nonprofits and local government provides the groundwork for effective PILOTs. Because PILOTs are voluntary, local officials should clearly articulate the need for these payments and how the funds will be efficiently used. Local officials should also acknowledge the contributions provided to the community by nonprofits and actively listen to their concerns.

- **Justify the amount of the PILOT.** The amount of the requested PILOT should reflect the cost of providing services to a nonprofit and use some basis to calculate a payment.[48]

- **Earmark PILOTs for public services consistent with a nonprofit's mission.** Some nonprofits may be concerned that making an unrestricted contribution to local government contravenes their mission or will upset its donors. An option may be to use the PILOT to fund activity that directly benefits the nonprofit or otherwise efforts its mission.

- **Pursue long-term PILOT agreements.** Long-term agreements, five years or longer, are more cost-effective for all parties and provide a predictable budget number for the local government and nonprofits. Long-term agreements may specify a base year payment and include an inflator for the number of the years of the contract.

- **Reduce cash PILOTs if a nonprofit agrees to provide new services to local residents.** Typically, most nonprofits prefer to provide services rather than make cash PILOTs; local governments often desire monetary contributions to fund their highest priorities. Local officials and nonprofit principals can work together to pinpoint services that would be most valuable for local residents and most appropriate for each nonprofit to provide. Boston's PILOT program allows nonprofits to reduce their cash contributions by up to half for providing certain community benefits.

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47 Policy Brief 2016, p. 4.

48 For example, Boston requests 25% of what a nonprofit would owe if taxable, as approximately 25% of Boston's budget is spent on public services used by all. (Ron Rakow. "Payment in Lieu of Taxes: The Boston Experience" *Land Lines*, January 2013.)

Methods

Upon reviewing the literature, internal discussions led Commission staff to conclude that although gaining insight into national trends is important, it was imperative to first determine the status of PILOT programs within Pennsylvania. After quickly realizing that there was no statewide database with information on PILOTs, the Commission decided to distribute a survey to all boroughs, first class townships, and third class cities in the Commonwealth.[49] Working with the Pennsylvania State Association of Boroughs and the Pennsylvania Municipal League, an online survey was developed and distributed via the associations' respective email contact lists.[50] The survey sought to gather information not only on a municipality's familiarity, use, and/or success with PILOT agreements, but also on the type and amount of tax-exempt properties within the municipality and to identify budgetary concerns that it may have.

Municipalities were surveyed on both economic and demographic variables, and also asked questions about their current PILOT agreement, if applicable. Those without a PILOT agreement were asked about their potential interest in such a program and for information on former programs that they may have had. Questions about their work force, public services and fees, types of tax-exempt property, and budget concerns were asked of all municipalities. Those municipalities indicating that they currently were in a PILOT agreement were asked about how the agreement was negotiated, how successful they felt the program is, participation rates, and whether they would recommend a PILOT based on their experience. Municipalities indicating no current PILOT program were asked if they previously had a PILOT, why that program stopped, and whether they would consider such an agreement in the future.

Additionally, conversations with county assessment officials quickly uncovered that these county offices are also involved in the negotiation and implementation of PILOT agreements. To discern how widespread this involvement was, an additional survey was developed with the County Commissioners Association of Pennsylvania and distributed to their membership.[51]

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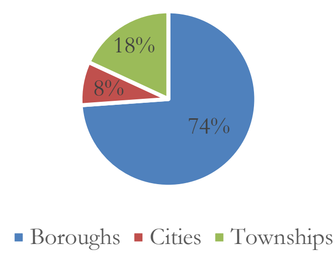
[49] By comparison, we suspected that it would be more difficult to isolate trends in townships of the second class because they vary so greatly in size and economic condition, and unlike cities, boroughs and first class townships, do not show an overall statewide trend towards declining fiscal health. (*See e.g.*, Communities in Crisis: The Truth and Consequences of Municipal Fiscal Distress in Pennsylvania, 1970-2014. Pennsylvania Economy League, p. 10.) Thus, they were not a research subject in this report. As such, any reference to "township" within this report is meant to only include first class townships. As the commission's focus is on local governments and not school district municipalities, school districts were also not included in this survey.

[50] *See* Appendix A for a copy of the municipal survey questionnaire.

[51] *See* Appendix B for a copy of the county survey questionnaire.

Of the 199 responses that we received, 147 were from boroughs (15.1% of the 975 boroughs in the state), 16 were from cities (28.6% of the 56 cities in the state), and 36 were from townships (38.7% of the 93 townships in the state). So, while boroughs over-represent the other two municipal classifications combined in our data nearly 3-1, they represent the smallest proportion of their entire respective municipal classification.



The U.S. Census Bureau's Fact Finder provided municipal data on household income, poverty levels, education rates, and residential property information. These statistics were pulled for all municipalities that participated in the survey, and compared to the statewide averages. Additionally, the Department of Community and Economic Development's (DCED) Municipal Statistics database was utilized to gather information on taxation rates, budget size, and municipal debt rates and sources.

Financial and demographic statistics were added to the matrix of survey responses, creating a singular database with all information for analysis. Non-numerical replies in the survey were recoded, and open-ended responses were interpreted and categorized into broader topic areas for recoding wherever possible. Because a comprehensive database of PILOTs across the Commonwealth does not exist, our initial goal was to gather as much potentially relevant information as possible about these municipalities, both in terms of their use and success of PILOT agreements, and their financial and demographic makeup.

These surveys also provided us with an opportunity to gather demographic and economic statistics about the participating municipalities. These results, coupled with data retrieved from the US Census Bureau and DCED's municipal statistics database, help to shape our overall picture of municipal financial health in Pennsylvania. After the database was complete, we ran several statistical tests to identify what, if any, commonalities or relationships existed among municipalities with a PILOT and among those with a successful PILOT. In looking at differences between municipalities with and without PILOTs, a comparison of averages showed trends among PILOT municipalities. A crosstab, or contingency table, analysis indicated relationships among various factors and how successful the PILOT is. Likely due to the relatively low sample size, particularly in analyzing PILOT success, many of the tests resulted in weak relationships, not statistically significant results, or both. However, survey results do still indicate certain trends and patterns that can be useful to help guide discussions on PILOT agreements within the Commonwealth. The results presented herein are footnoted with the relevant statistical significance and strength of relationship measure.[52]

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[52] For purposes of this report, Gamma or Cramer's V measures of strength of 0.0 - 0.2 represents a weak relationship, 0.2 – 0.4 a moderate relationship, and 0.4 – 1.0 a strong relationship. Generally, a statistical significance of 0.05 or lower is preferable in social science research, with significance of 0.10 being acceptable. *See* Appendix C for complete statistical test results.

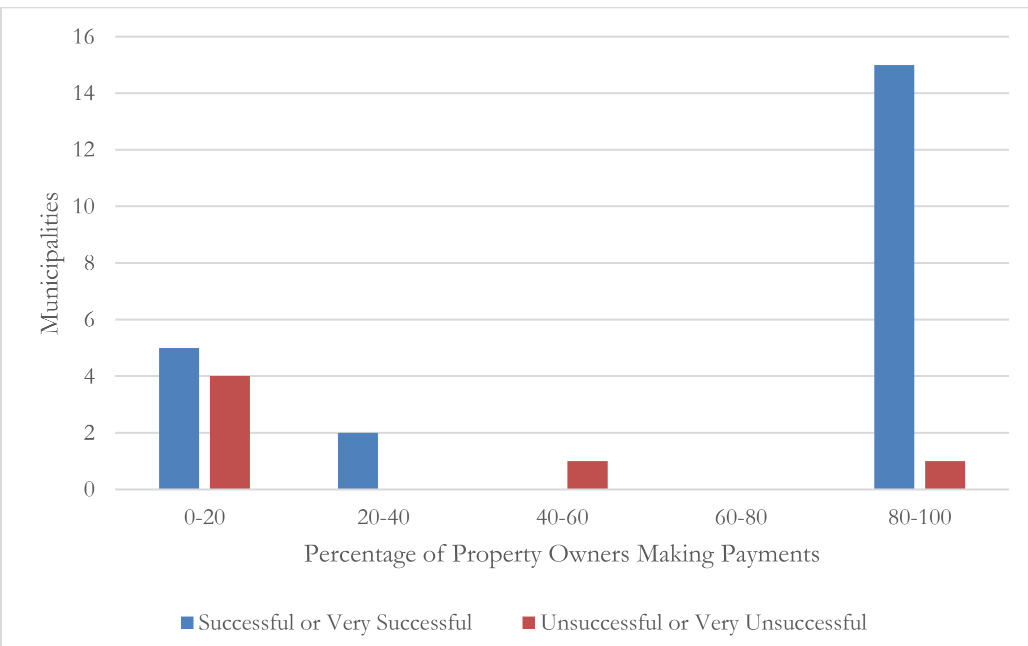
Results and Discussion

I. There is a strong relationship between PILOT success and both higher participation rates and informed negotiations.

As reflected in the literature, there is a wide variance in the overall success of PILOT programs nationwide, and for differing reasons. The same holds true for the local governments that participated in our survey. The survey suggests, and research supports, that fostering an amicable, fair negotiation with the tax-exempt property could lead to higher levels of satisfaction with the PILOT program, as those respondents with a higher proportion of property owners making payments also showed higher levels of satisfaction with their programs.

Negotiation and PILOT Success

Of those municipalities with 80% or more of the property owners which were asked for a PILOT making payments, 46.9% would characterize their PILOT as successful or very successful, whereas only 9.4% would characterize their PILOT as unsuccessful or very unsuccessful.[53]



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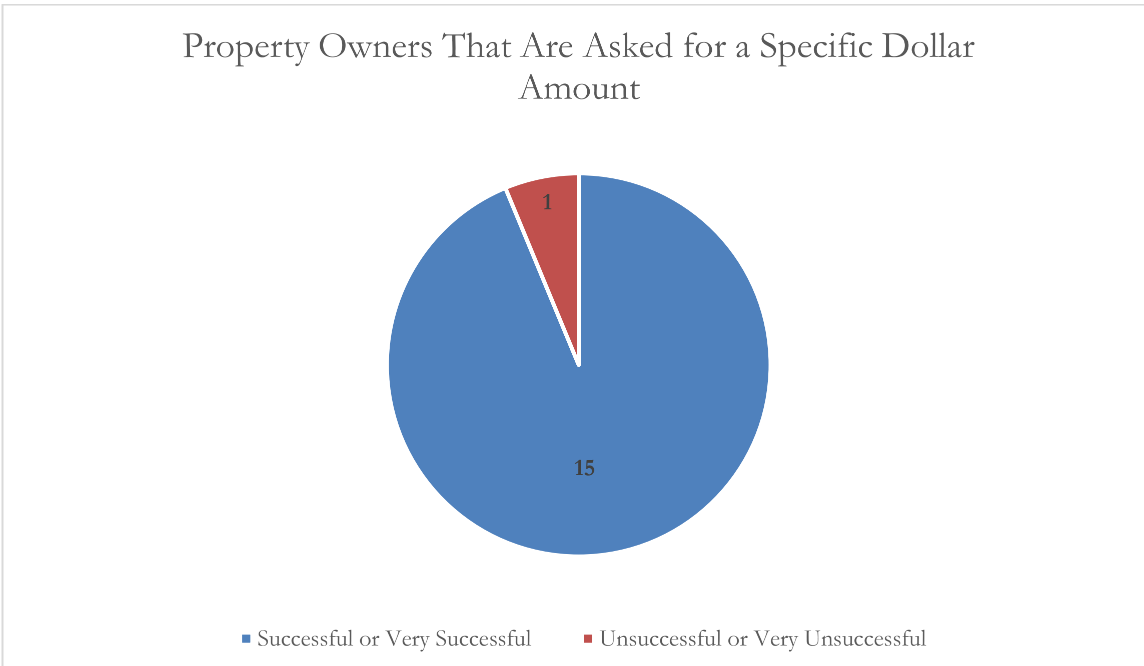
[53] Gamma: 0.751; Significance: 0.000.

Specific Requests and PILOT Success

A similar relationship exists between municipalities that ask for a specific dollar amount during their PILOT negotiation and a higher ranking of success.[54] Of the municipalities characterizing their PILOT agreement as successful or very successful, about 68% ask for a specific dollar amount in their PILOT requests. However, just over 11% of the municipalities characterizing their PILOT agreement as unsuccessful or very unsuccessful ask for a specific amount.



Again, the survey results reflect similar conclusions to the Lincoln Institute's studies. In their recommendations, they suggest that municipalities should set targets for their requests and justify the amount of the request using calculations. The survey shows a positive relationship between making a specific contribution request and being more successful. Similarly, when asked to explain how they determine how much to ask for in negotiations, nearly 65% of respondents referenced using some type of formula, such as a percentage of what their property tax would be or based on per bed in housing developments, to justify their request.[55] This relationship supports the Lincoln Institute's recommendation to justify the amount of the PILOT request.

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[54] Cramer's V: 0.409; Significance: 0.061

[55] As discussed in the Background, there are federal and state statutory guidelines that do stipulate certain PILOT payments to municipalities affected by government owned property. While this survey did not intend to include those types of PILOT payments, survey responses from multiple municipalities, particularly those with federal HUD properties, suggest that federal payments were included in their analysis as they replied to the survey.

Recommendation 1: Municipalities should approach PILOT negotiations with a justifiable, specific dollar request, and a cooperative, collaborative attitude.

The Lincoln Institute offered numerous recommendations for municipalities considering a PILOT agreement, as outlined in the Literature Review. The survey results support their recommendations. Those municipalities with higher rates of participation also have more favorable views of the success of their agreements. Similarly, the Lincoln Institute suggests working collaboratively, communicating respectfully, and listening to the concerns of the tax-exempt property owners. By approaching the PILOT negotiation in a cooperative, rather than combative, manner, all parties are able to leave the negotiation feeling heard and understood. This in turn can lead the property owner to be more likely to make the voluntary payments asked of them.

As an illustration, take for example two survey respondents. The first rated their PILOT agreement as "Very Unsuccessful" and for their rating explanation stated that the PILOT was "not worth the aggravation".[56]By classifying the PILOT agreement as an "aggravation," it is likely that the conversations were more contentious and not collaborative. On the other hand, another municipality ranked their PILOT agreement as "Very Successful" and explained that "we negotiated a compromise that we all accepted…".[57]This open compromise and willing to work together led to a more successful PILOT payment, as evidenced by their reported 80-100% participation rate.

Further, municipalities that formerly had a PILOT agreement and no longer do were asked why the program stopped. Just over half of the respondents indicated that negative feedback from tax-exempt property owners was the main reason the program ended. One-third of respondents ended the program due to low participation. While negative feedback does not necessarily equate with a negative negotiation approach, it does stand to reason that combative negotiations would be more likely to result in a negative perception of the PILOT experience.

When asked how likely they would be to recommend a PILOT to another municipality, one respondent wrote:

> It works well for us. Penn State is our largest employer and one of, if not the largest, land owners in our county. They have generally tried to be a good neighbor with this agreement. I recommend other communities with large landowners also work out such agreements.[58]

This partnership with the university extends beyond this one particular municipality. The survey showed that The Pennsylvania State University is involved in a regional PILOT

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[56] This is an anonymized comment from a respondent answering question 30 of the municipal survey. *See* Appendix A.

[57] *Id.*

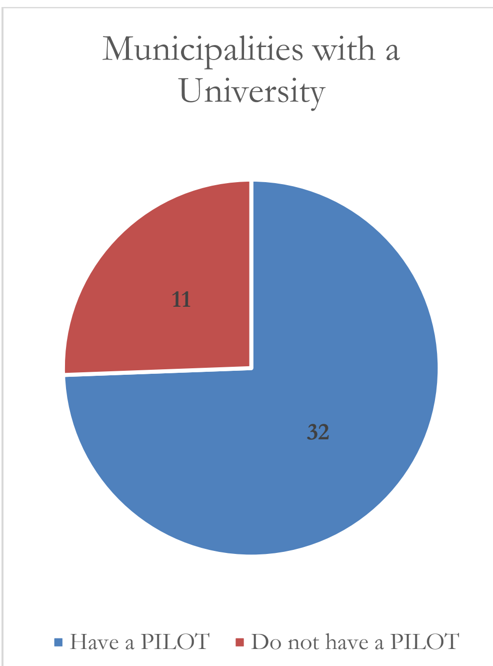
[58] This is an anonymized comment from a respondent answering question 27 of the municipal survey. *See* Appendix A.

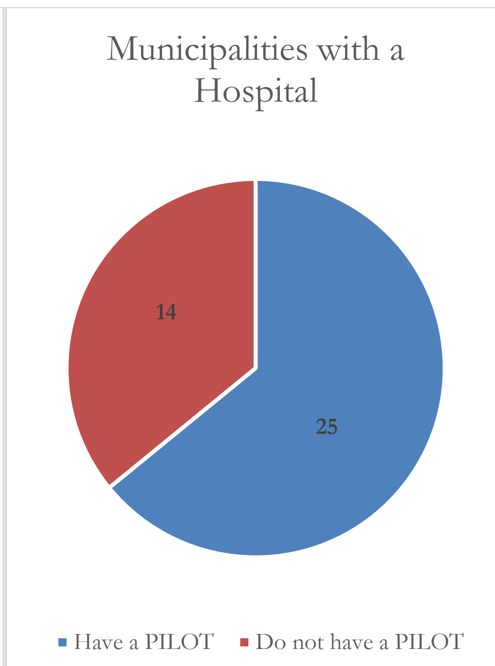
agreement with several municipalities. The four municipalities that indicated they were part of The Pennsylvania State University PILOT program were all likely or very likely to recommend a PILOT to other municipalities. Two listed the program as successful, one characterized the program as very successful, and the final municipality ranked the program as neither successful nor unsuccessful, citing the local impact of the university's visitors rather than the school itself.[59]

Types of Tax-exempt Property and PILOTs

Related to the Lincoln Institute's recommendations on how a municipality should approach a PILOT negotiation, they also found that within their study, hospitals and universities were the largest contributors of PILOT funds.[60] Pennsylvania municipalities which have a hospital and/or university that do not already have a PILOT in place should consider opening communication with those entities, as municipalities with those tax-exempt properties not only are more likely to have a PILOT, but also show higher rates of satisfaction with their PILOT in the survey study.

Of the municipalities with at least one university, 74.4% currently have a PILOT, whereas of those without a university, only 31.3% have a PILOT. Similarly, 64.1% of the respondents with at least one hospital currently have a PILOT, compared to 34.7% without a hospital.





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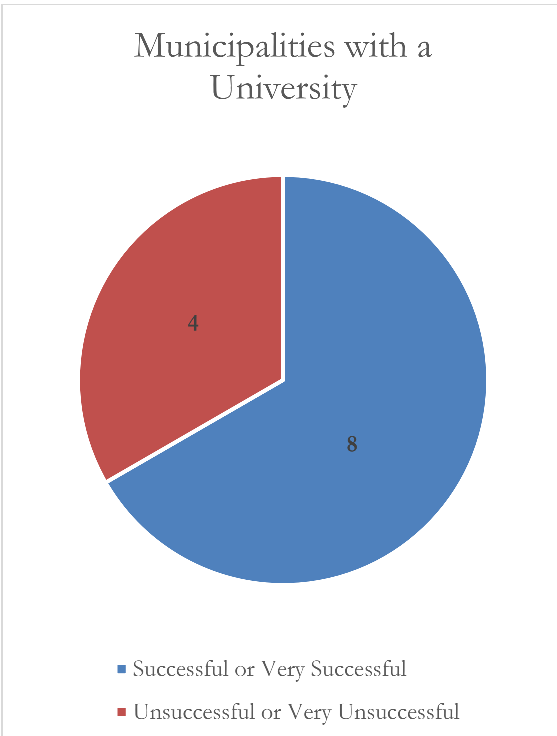
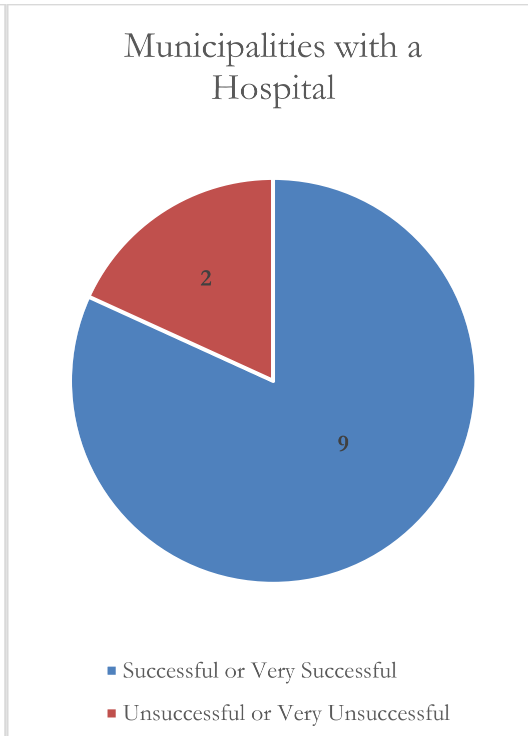
[59] Anecdotally, it appears there may be a desire for collaboration between municipalities in developing regional PILOT agreements similar to Penn State, as illustrated by a respondent's comment that "[w]e would like to work with other County seats and Town & Gown communities to find a more equitable method of receiving PILOT payments" in response to question 36.

[60] Policy Brief 2016.

Similarly, municipalities with a hospital or university also characterize their PILOT agreement success more favorably than municipalities without these properties. Of the 26 municipalities with at least one university, twice as many would characterize their PILOT as successful or very successful, as opposed to those who would characterize their PILOT as unsuccessful or very unsuccessful.[61] Of the 21 municipalities with at least one hospital, nine would characterize their PILOT as successful or very successful, compared to only 2 that would characterize their PILOT as unsuccessful or very unsuccessful.[62]





II. Developing a PILOT requires resources that smaller municipalities may not have.

When Boston decided that it needed to revise its PILOT program, as discussed in the Literature Review, it created a task force of nine members to conduct a 16-month examination of the current program and make recommendations.[63] Compared to the 45 surveyed municipalities (out of 84 with PILOTs) that have a full time workforce of less than 30, an

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[61] Cramer's V: 0.240; Significance: 0.421. A likely explanation for the weaker relationship and lack of statistical significance is the low sample size of only 26 municipalities.

[62] Cramer's V: 0.233; Significance: 0.457. Again, the sample of only 21 municipalities is a likely contributor to the weaker relationship and significance.

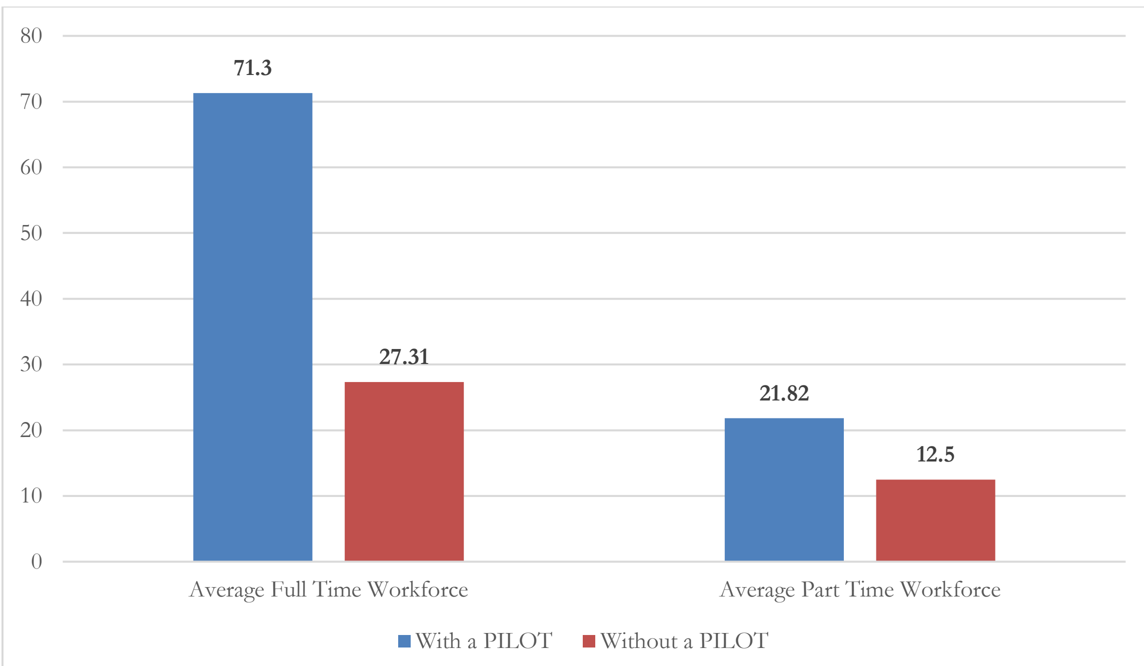
[63] *See* Final Report and Recommendations.

endeavor like Boston's is simply outside the resource capacity of many of Pennsylvania's municipalities.

There is a gap between the ability of larger and smaller municipalities to successfully implement PILOT agreements. Developing, negotiating, and collecting a PILOT takes resources – staff, time, money – which smaller, less sophisticated municipalities do not have. Providing these smaller communities with resources to assist them could help to close this gap and would offer smaller municipalities one more tool to help their financial outlook.

Employment Level and PILOTs

Local governments with a PILOT have an average of 43.99 more full-time employees[64] and 9.32 more part-time[65] employees than municipalities without a PILOT. Tied to employment rate, 72.6% of municipalities with a PILOT listed "payroll and/or pension costs" as a budget concern, which naturally follows from having more employees.

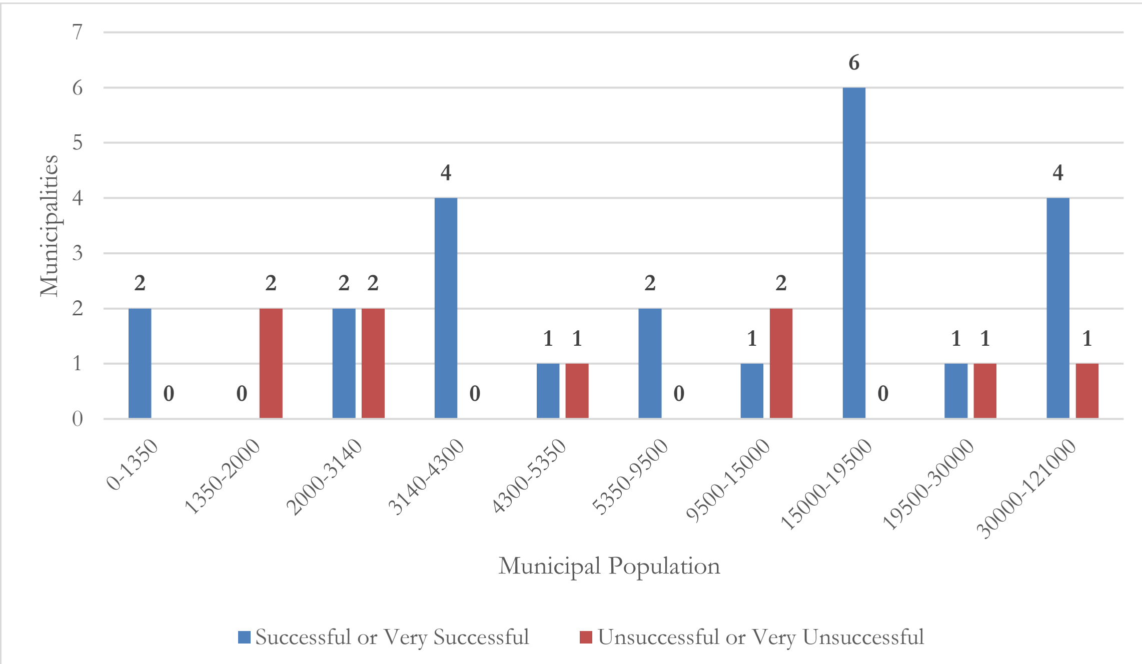


[64] Significance 0.002.

[65] Significance 0.062.

Population and PILOTs

The average population for a municipality with a PILOT is approximately 7,400 people higher[66] than populations in municipalities without a PILOT.[67] Of those with a population of 5,350 or greater, 41.2% would characterize their PILOT as successful or very successful, whereas only 11.8% would characterize their PILOT as unsuccessful or very unsuccessful.[68]



Municipal Budget and PILOTs

Municipalities participating in a PILOT agreement have, on average, a budget approximately $14,000,000 higher[69] than those without a PILOT.[70] They also hold an average of just over $10,000,000 more[71] in total debt than municipalities without a PILOT. Of those with a total

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[66] Significance 0.001.

[67] Population responses ranged from 123-120,128.

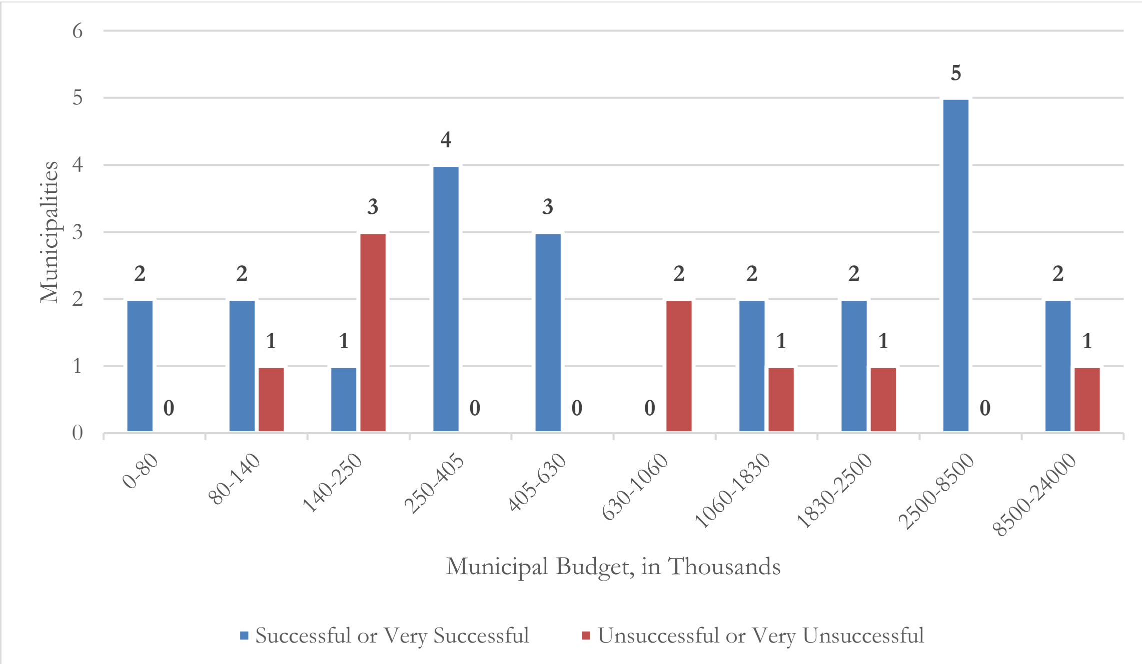
[68] Gamma 0.162; Significance 0.123. Like what was seen in assessing satisfaction levels within municipalities with a hospital or university, the small sample size (64 municipalities) again likely affects the strength and statistical significance.

[69] Significance 0.002.

[70] Total municipal budget had a range of $50,966 to $237,464,866. Interestingly, the makeup of the budget has a negative relationship (Gamma -0.343; Significance 0.000) with having a PILOT. Of the municipalities whose budget is 60% or more funded by property taxes, only 16.7% have a PILOT.

[71] Significance 0.021.

budget of $6,300,000 or greater, 32.4% would characterize their PILOT as successful or very successful, whereas only 14.7% would characterize their PILOT as unsuccessful or very unsuccessful.[72]



Poverty Level and PILOTs

In addition to being larger in terms of population, budget and employees, municipalities with PILOT agreements also shower higher rates of their populations living under the poverty level.[73] On average, municipalities which currently have a PILOT agreement have nearly 6% higher poverty levels[74] (17.3% compared to 11.4%) than those municipalities without a PILOT.[75] Municipalities with a poverty level higher than 16% are more satisfied with their PILOT agreements, with 37.8% characterizing their PILOT as being successful or very successful, and only 16.2% characterizing their PILOT as being unsuccessful or very unsuccessful.[76]

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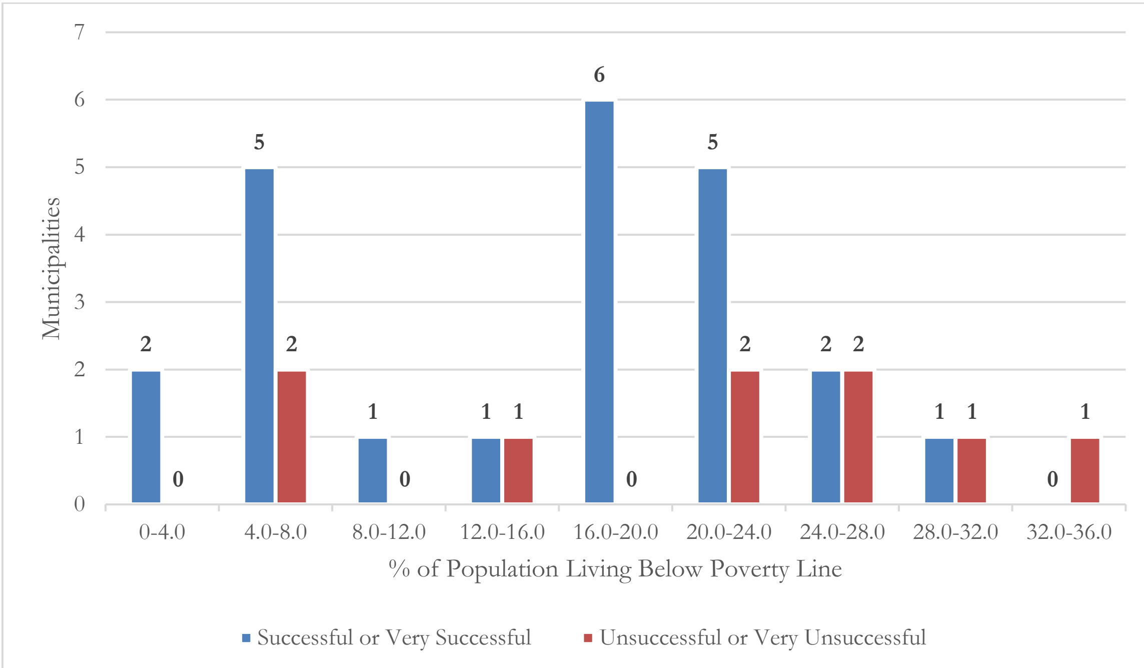
[72] Gamma 0.099; Significance 0.320. *See* n. 85 for sample size analysis.

[73] It is important to note that overall, the participants in the survey showed an average percentage living under the poverty level higher than the state percentage.

[74] Significance 0.000. The percentage of the population living below the poverty line had a range of 1.2% to 43.7%.

[75] Additionally, municipalities that have previously attempted a PILOT have an average of 2.8% higher poverty levels than those that have never attempted a PILOT.

[76] Gamma 0.019; Significance 0.857. *See* n. 68 for sample size analysis.



Recommendation 2: Regional or cooperative efforts may provide support for negotiating and implementing PILOT agreements.

It appears that as the size and sophistication of municipalities increase, the prevalence of PILOTs increase as well. This supports the research and other survey responses that negotiating, implementing, and maintaining PILOT agreements can be labor intensive. In situations where smaller municipalities would be ripe for a PILOT agreement, local governments should explore regional or cooperative resources.

Because PILOTs are more successful when negotiated cooperatively, and those negotiations should start with a justifiable, specific dollar amount, municipalities with more resources at their disposal, both in terms of staff and finances, are at an advantage as compared to smaller municipalities.

Municipalities with a PILOT agreement were asked what challenges they encountered in implementing the program. Of the answers, 56.3% referenced difficulty in determining how much payment to request and/or in identifying eligible property owners. Over half of the respondents indicated that their challenges involve preliminary preparation - before talks with property owners even begin. In municipalities with less resources, the struggle is even more evident. Of the municipalities which listed both as challenges, the average population is 4,750, the average budget is only $5,294,450, and the average total employees is 32. However, municipalities that faced neither of these challenges have an average population of 10,247, average budget of $16,023,757, and an average of 64 total employees.[77]

Smaller municipalities, and municipalities with higher rates of poverty, may be ideal candidates for a PILOT agreement but simply don't have the resources, or knowledge, to pursue such an arrangement. Municipal leaders may be able to find natural partners to help pursue agreements in school district or county representatives who also seek to form PILOT agreements with the same tax-exempt entities. In other cases, formal or informal efforts to pursue intergovernmental cooperation could allow municipalities to pool resources to identify, establish common criteria and negotiate with tax-exempt entities across a region. In addition, county level assessment offices maintain the tax rolls and could help municipalities both identify the eligible tax-exempt property owners, and also provide the municipality with the assessed value of these properties to help them begin their negotiations.

Currently, the county survey indicated that some assessment offices participate in PILOT agreements generally after a property owner appeals their tax assessment, asserting that they should be tax-exempt. Some counties negotiate a PILOT between the property owner and relevant taxing jurisdictions as part of a settlement to avoid further litigation. However, the Lincoln Institute and the municipal survey both suggest that cooperative negotiations may be more successful than litigation or seemingly "forced" settlements sought to avoid litigation. Thus, more cooperative efforts may benefit all of the involved parties.

III. There is a systemic lack of record keeping of PILOTs.

Recommendation 3: A consistent method for documenting PILOT agreements and payments could benefit all parties involved.

As seen in the research and supported by our findings, there is a distinct lack of systemic record keeping on PILOTs. There is not a centralized database, or a consistent county or regional record, of which municipalities receive PILOTS, from whom, and in what amount. Creating a formal mechanism in which to record this information would facilitate better data-collection and allow policy makers to make future decisions based upon that data, and it would also allow local negotiations to take place with a level of transparency about the PILOT agreements in place between similarly situated taxing jurisdictions and tax-exempt entities throughout the Commonwealth.

Assessing Tax-Exempt Property

County assessment offices value and assess real property and maintain the property tax rolls. However, determining the value of unusual or historic structures is complicated and can require extra resources and staff time, thus reducing the incentive to use limited resources to

[77] As extreme outliers, Harrisburg was omitted from the averages for municipalities facing both challenges, and Scranton was omitted from the averages for municipalities facing neither challenge.

value property that is not taxable.[78] Some Pennsylvania county assessment officials also explain that the value of a historic building that was built for a specific use may be significantly lower if the structure is conveyed, for example, to a private property owner for another use.

Because municipalities entering PILOT negotiations with a justifiable, specific dollar request experience higher levels of PILOT success, county assessment of these properties is essential to provide municipalities with accurate information on which to base their request. This is another area in which municipalities could benefit from a greater level of partnership with counties in implementing PILOT agreement.

If municipal and county assessment officials work more closely with one another in proposing the requests upon which a PILOT is ultimately formed, it may also be a natural fit for municipalities to ultimately file a copy of the resulting PILOT agreement with the county assessment office in an effort to share information and achieve some of the transparency goals described above.

Municipal Financial Statements

Alternatively, DCED could maintain this information. All municipalities are required to submit annual audits and financial statements to DCED. These reports include a revenue line "Contributions and Donations from Private Sectors" that likely include an aggregate of PILOT payments but could also include other revenue. However, these financial statements could be amended to include a specific line item allocation specifically for PILOT revenue and provide at least a basic statewide reporting mechanism. Municipalities interested in pursuing a PILOT agreement could use this database as a reference tool to contact other, similar, municipalities which report PILOT revenue for guidance and assistance.

Although it would require a coordinated effort to develop and implement, a central database that included the names and contribution amounts of the tax-exempt property owners and the benefitted taxing districts would yield additional value. Other tax-exempt entities and taxing districts could use this information to help negotiate. Clear information helps negotiation and removes asymmetric information for all involved parties. This information stream allows all parties to justify their PILOT requests and counteroffers, and the survey, as discussed, reflects the positive relationship with justifiable dollar requests and PILOT success.

Transparency also allows the public to acknowledge the contributions of participating properties and could pressure those who have previously resisted PILOT agreements to renegotiate with their host municipalities.

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

IV. *There is not a one-size-fits-all approach to PILOTs.*

Regional cooperation among taxing entities and multi-municipal resource pooling may be more appropriate than a state directed program for municipalities primarily because PILOT negotiations, agreements and their level of success are not "one size fits all". The Lincoln Institute, in its recommendations, noted that PILOTs are not appropriate for all municipalities nor are they appropriate for all nonprofits. Survey results suggest that as well. Although there are some statistical trends, anecdotal information and the literature suggest individual success relies heavily on the attitudes and financial stability of all parties involved. Local officials would continue to be better equipped to provide information and support that better reflect the regional needs and realities of both the local governments and the tax-exempt property owners within them. Survey responses also indicated that there is a desire for more information about PILOTs. The final question of the survey asked generally for any additional information the municipality wished to share. One-fourth of the respondents used that question as a means to request more information about PILOTs, qualifications, and implementation. Further, when asked if they would consider a PILOT in the future, 27.3% of respondents indicated they would need more information about the agreements before considering such a program.

Municipalities were asked to explain their ranking of the success of their PILOT agreements. Answers varied greatly depending on a municipality's specific experiences. Overall, 20.6% said the program does not generate enough revenue, although 17.6% said that any extra revenue is a bonus. Respondents also reflected disappointment in participation rates, as illustrated below:

> We have three large contributors that make up 95% of all funds collected. We would be more successful if more of the smaller organizations/churches participated in the program.[79]
>
> "A small percentage of non-taxable property owners respond to the request; however, those who respond give generously. We would like increased participation.[80]

Further, respondents also highlighted the time and political will required to implement a successful program, again suggesting the need for county level assistance in these programs. One respondent said that it would be "easier to measure success if the PILOT program was more strategic in purpose than it is now,"[81] while another shared that "the program has not received the level of attention required to make it successful."[82]

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[79] This is an anonymized comment from a respondent answering question 30 of the municipal survey. *See* Appendix A.

[80] *Id.*

[81] *Id.*

[82] *Id.*

Closely connected to PILOT success, the likelihood that a municipality would recommend a PILOT to others was also measured. When asked to explain whether they were likely to recommend a PILOT, the most common themes were that 1) the agreement didn't generate enough money for the effort to be worthwhile; 2) any extra money coming into the municipality is helpful; and 3) asking tax-exempt properties for a PILOT increases equity by making them pay their fair share for services provided.

The Lincoln Institute, in providing justifications in favor of PILOT programs, argued that nonprofits should pay for the public services they consume. This is reflected in the survey respondents' explanation for recommending a PILOT. Further, when asked to provide additional information, one municipality stated that "[n]ursing homes/group homes requiring additional municipal services (police, fire, ems) should be paying full local tax rates regardless of non-profit status or not."[83]

The Lincoln Institute also recommended that for some municipalities, an alternative to a PILOT may be the better option. Municipalities may have more success considering user fees for some of the services they expect universal payments for in lieu of a PILOT.

While some municipalities agree that PILOTs increase equity and allow for municipalities to recoup costs of public services for tax-exempt properties, others argue that the positive impact of the tax-exempt property mitigates and disqualifies the need for such a program. When asked if they would consider a PILOT in the future, 9% indicated that tax-exempt properties provide community services already, so it would not be appropriate to ask them for more.

> Many of these institutions in our borough and other municipalities provide benefits or have served or continue to serve residents. It is unconscionable to seek money because of mismanagement of funds or an unwillingness to make tough decisions. Policy-makers must manage budgets, costs, and stop holding their hands out for others to help.[84]

While individual attitudes regarding the appropriateness of PILOT agreements vary, there does appear to be a desire by survey respondents for alternative methods of revenue generation. Although a PILOT may not be the answer for every situation, an increased effort in education and assistance for those who do choose to pursue this avenue could provide those municipalities with another tool in budget development.

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[83] This is an anonymized comment from a respondent answering question 36 of the municipal survey. *See* Appendix A.

[84] This is an anonymized comment from a respondent answering question 35 of the municipal survey. *See* Appendix A.

Conclusion

PILOTs are a tool which local governments may find useful in relieving the fiscal stress that many of Pennsylvania's municipalities are experiencing. Voluntary agreements with tax-exempt entities can help to provide not only a new revenue source, but also increase tax burden equity among taxpayers. These agreements acknowledge the benefits that tax-exempt entities provide their respective communities, while also provide an opportunity for such entities to mitigate the costs the host municipality bears due to their tax-exempt status.

The Local Government Commission's study of PILOTs largely reflects similar attitudes regarding municipal PILOT programs as previous nationwide studies. Although PILOTs can be a financial tool for municipalities, tax-exempt entities provide other benefits to their community and often operate within similarly tight budget conditions.

The study resulted in 4 overarching conclusions regarding PILOT agreements within the Commonwealth:

- There is a strong relationship between PILOT success and higher participation rates and informed negotiations.
- Developing a PILOT requires resources that smaller municipalities may not have.
- There is a systemic lack of record keeping of PILOTs.
- There is not a one-size-fits-all approach to PILOTs.

From these conclusions, the Local Government Commission offers the following recommendations for increasing the efficiency and effectiveness of PILOT agreements:

- Municipalities should approach PILOT negotiations with a justifiable, specific dollar request, and a cooperative, collaborative attitude.
- Regional or cooperative efforts may provide support for negotiating and implementing PILOT agreements.
- A consistent method for documenting PILOT agreements and payments could benefit all parties involved.

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