

**Preliminary Report
of the
Nonprofit Tax Review Task Force
(P.L. 2013, C. 368, p. AA)
December 12, 2013**

Public Law 2013, Chapter 368, Part AA directed the Commissioner of Administrative and Financial Services to convene the Nonprofit Tax Review Task Force. The Task Force was convened on October 30 and continued its work and deliberations over an additional four meetings that were held on November 15, November 20, November 25, and December 9. The Task Force paid close attention to the duties assigned to it in Part AA-4 of the legislation during each of the five meetings and the group's final report will reflect that due consideration was given to each of the assigned duties.

This preliminary report summary captures two key decisions that were reached in the final meeting, the first of which was agreed to unanimously and the second recommendation was supported by five of the eight members in attendance on December 5. The final report will likely contain statements by some members of the Task Force who have expressed a desire to clarify their reasoning for the position they took on that second recommendation.

First, the Task Force took the following position with respect to the first sentence in Part AA-4, which provided the central charge to the group:

“The Task Force unanimously supported the position that any proposal to apply a tax to a broad array of tax exempt nonprofit organizations for the purpose of generating as much as \$100 million which would be collected by the state, either on a temporary basis or as a matter of ongoing policy, is neither a feasible nor desirable recommendation.”

Lastly, the group worked long and hard to arrive at a recommendation to the Joint Standing Committees on Appropriations and Financial Affairs and Taxation, as directed in Part AA-6, and arrived at a majority position (5-3 of those present and voting), as follows:

“The Task Force further suggests guidance to the Appropriations Committee and Taxation Committee going forward on this matter to utilize the following discussion parameters:

In further discussion of any impositions of taxation or service costs applicable to nonprofit entities, we suggest that those deliberations be limited under Title 36 solely to consideration of locally applied (actual cost) service charges on nonprofits; giving necessary consideration of supportable thresholds such as size (as determined by annual local revenue or annual local income), caps on assessments, appropriate offsets, and/or consideration of other impacts to communities and the nonprofit entities. Such determinations would require more time than the Task Force currently has, but it is our hope that this guidance provides helpful direction to the Appropriations and Taxation Committees in the Second Session of the 126th Legislature.”

Attached to this preliminary report are two items: a copy of the entire Part AA statute and a listing of the nine members of the Task Force. All members participated actively and constructively throughout the group's deliberation. Staff support was provided by Dr. Michael Allen, David Ledew, and Kathleen Hamel of Maine Revenue Services and Geoff Herman from the Maine Municipal Association. Both Kathy Hamel and Geoff Herman kept meeting summaries which were reviewed and approved following each meeting. Geoff Herman consistently went above and beyond the "call of duty" by providing the group with timely background and survey information.

Attachments

- 1) Part AA Statute
- 2) Nonprofit Tax Review Task Force Members

PART AA

Sec. AA-1. Nonprofit Tax Review Task Force established. The Commissioner of Administrative and Financial Services or the commissioner's designee shall establish the Nonprofit Tax Review Task Force, referred to in this Part as "the task force."

Sec. AA-2. Task force membership. Notwithstanding Joint Rule 353, the task force consists of the following 9 members:

1. The Commissioner of Administrative and Financial Services or the commissioner's designee, who serves as chair of the task force;
2. Two members of the Joint Standing Committee on Appropriations and Financial Affairs appointed by the committee chairs;
3. Two members of the Joint Standing Committee on Taxation appointed by the committee chairs; and
4. Four members representing interested parties, including a representative of the Maine Association of Nonprofits, a representative of the Maine Municipal Association and 2 representatives of other interested parties appointed by the Governor from a list of names suggested by the Speaker of the House of Representatives and the President of the Senate.

Sec. AA-3. Convening of the task force. The task force shall convene no later than September 1, 2013.

Sec. AA-4. Duties. The task force shall evaluate the feasibility and desirability of identifying parameters and a process for imposing a temporary assessment on certain nonprofit organizations that will generate approximately \$100,000,000 in revenue annually. The task force shall consider how other cities and states treat nonprofit organizations for purposes of service charges, payments in lieu of taxes and property taxes. The task force shall prepare a report that must include recommendations, including the following:

1. An identification of certain nonprofit organizations on which the assessment will be imposed;
2. A value basis for the assessment that includes all land, buildings and equipment held by certain nonprofit organizations;
3. A method for calculating the amount of the assessment to be imposed on certain nonprofit organizations that includes a mechanism to provide adjustments for nonprofit organizations with fixed assets that are disproportionate to the size of the nonprofit organization's operating budget;
4. A method for crediting against the temporary assessment any payment in lieu of taxes that is being paid by a nonprofit organization; and
5. A process to transfer the assessment revenue to municipalities.

Sec. AA-5. Staff assistance. The Department of Administrative and Financial Services shall provide staffing services to the task force.

Sec. AA-6. Legislation. The Commissioner of Administrative and Financial Services shall submit the task force's report, including any necessary implementing legislation, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Taxation no later than December 1, 2013. The Joint Standing Committee on Appropriations and Financial Affairs may submit a bill related to the report to the Second Regular Session of the 126th Legislature.

Nonprofit Tax Review Task Force Membership

H. Sawin Millett, Jr. – Chair
Commissioner
Department of Administrative and Financial Services

Senator Patrick Flood

Representative Michael Carey

Senator Rebecca Millett

Representative L. Gary Knight

Ms. Brenda Peluso
Director of Public Policy and Operations
Maine Association of Nonprofits

Mr. Joseph Grube
Chief Assessor
City of Lewiston

Mr. Arthur Blank
President and CEO
Mt. Desert Island Hospital

Dr. James Libby
Academic Dean
Thomas College