

## CHAPTER 5

### EXAMPLES OF LOCAL GOVERNMENT FISCAL STRESS: EDINBORO AND WEST CHESTER BOROUGHES

As shown in the individual municipal case studies (in this report as well in other PEL reports), it has become increasingly difficult for municipalities in Pennsylvania to continue to maintain a level of services to taxpayers that is supported by locally generated, tax-based revenue authorized under the various Commonwealth municipal codes.

The economic health of a region and the continued growth of stable employers and employment would seem to provide sufficient and predictable tax revenue growth for those municipalities that have experienced regional economic growth. The presence of a University within a region has been shown to produce regional economic benefits such as the growth in retail and wholesale commerce, growth in employment at steady and rewarding wages, and in the overall economic stability of the educational industry. Such economic regional benefits should provide sufficient tax dollars to the municipalities of the region.

However, based upon the current system and structure of local government finance in Pennsylvania, in combination with the resultant changes in taxable property, population and housing within the municipality as a result of hosting the university, the local tax revenue generated in the host municipality is not necessarily a product or an assured resource available from the otherwise beneficial regional economic impact of University. Indeed, the host municipality's neighbors receive the same economic benefits but do not share to any significant extent in the municipal fiscal burdens of hosting a university. Neighboring municipalities may be able to keep their tax rates and revenues significantly lower than the host municipality.

#### Edinboro Borough

Edinboro Borough is located in the northwest corner of Pennsylvania within Erie County. The Borough is situated on Lake Edinboro and is a recreational and vacation community of approximately 2.3 square miles. The surrounding municipalities are rural townships and small boroughs. The Borough is governed under a Home Rule Charter with a council-manager form of government, and under this Home Rule Charter, the Borough levies a one and a half percent Earned Income Tax (EIT) on Borough wage earners.

Of the five municipalities examined by PEL, Edinboro had the largest population decline between 1990 and 2000 in both percentage and absolute numbers. Further, the number of individuals residing in group quarters (for example, college dorms and other congregate housing) between 1990 and 2000 in the Borough decreased. Even with this decline, the Borough still has the second highest percentage of persons living in group quarters of the five host municipalities. Only Millersville Borough was higher at 31.7 percent.

As shown in the EIT analysis of Edinboro's revenue, large numbers of students working in the municipality will effect the revenue received from the EIT. The high percentage of Borough residents living in group quarters reflects university students living in university-provided housing located in the Borough.

The Borough had 2,087 persons or 30.0 percent of its population in the 18 to 21 years of age category, while the County percentage for this age group was 5.3 percent. Of the five host municipalities, Edinboro and Millersville had the highest 18-21 age percentages at approximately 30 percent. (See Exhibits 4A and 4B.)

### Housing Units

The proportion of renter-occupied units compared to total housing units was 59.7 percent, an increase from the 1990 proportion of 57.3 percent. Further, 64.2 percent of the total occupied units was rental housing. This large share of renter-occupied units is comparable to that seen in West Chester, Bloomsburg, and Lock Haven. A high percentage of renter-occupied can be considered a weakness in a community's overall housing market stability. It must be noted that a portion of the renter-occupied housing in Edinboro is of seasonal recreational nature primarily around Lake Edinboro, but the Borough believes this is a small percentage of the total rental units. Based upon the Borough's code enforcement activity, the rental market in Edinboro reflects student rentals of homes and off campus apartments. The presence of large numbers of rental residents that are students will further erode the Borough tax base for the earned income tax. In addition, the rents available to homeowners from student rentals encourage homeowners to rent their older homes and move to another home, perhaps to a neighboring township with available land and lower taxes.

### Taxes and Costs of Police Services

The cost of providing adequate police coverage has become a significant issue for Borough officials. The Borough's neighboring township relies on state police for police coverage and does not levy an additional wage tax on its residents. Edinboro Borough Council has tried to remain competitive in retaining residents by keeping the Borough property tax similar in millage amount to that in the Township. However, in recent years the Borough has had to increase the property tax to continue to fund Borough operations. It is feared recent property tax increases, coupled with the EIT tax rate, will cause prospective homeowners to choose the Township for new home construction as well as induce those individuals with large earned income to avoid the higher tax of the Borough, further depleting the EIT base of the host municipality. In addition, many of the summer rental homes within the Borough convert to student rentals in the fall and winter. Therefore, Earned Income Taxpayers who remain in the Borough absorb an ever increasing percentage of its tax burden. As an alternative to higher tax rates, a number of Borough residents and officials believe Edinboro should abandon its police force and accept free state police coverage. This is impractical given the University's presence. Nonetheless, an elimination of the host municipality's police force would have negative effects on the University's ability to attract students.

### Land Area of the University Campus

The main campus of Edinboro University is located in the central section of Edinboro Borough with the University's east border (and undeveloped area) touching Washington Township. Approximately 43.5 percent of Borough's total area is University property.

As with the other Universities reviewed by PEL, Edinboro University is a tax-exempt institution and pays no real estate tax to the Borough. In 2003, total Borough assessed valuation was approximately \$286.5 million. Of this total, exempt valuation was \$125.5 million and the University's share of this assessed valuation was \$113.5 million making the University approximately 90 percent of the Borough's total tax-exempt valuation and approximately 40 percent of the total assessed valuation in the Borough. The University's share of its host municipality's assessed valuation is the highest of the five universities examined in this study, and is nearly four times that of West Chester, which at 11 percent, is the lowest percentage of its host municipality's assessed value. Obviously, the smaller the area of a host municipality, and

the larger the area utilized by the university, the more negative the tax exempt assessment loss on the host municipality.

The University occupies a large percentage of the land area of the Borough; the remainder of the Borough is comprised of residential structures and there is little or no commercial and industrial taxable entities; the Borough is also not the County seat. The large amount of “reserved” land controlled by the University limits the new residential housing that can be built by private owners and, therefore, limits the ability of the Borough’s Real Estate tax base to expand. This inability to create new taxable structures and wage earning taxpayers hampers the Borough’s ability to fund necessary services. Consequently, the Borough relies on its EIT to an extent greater than any other local tax, both real estate and nonreal estate based.

**A problem that may be unique to Edinboro is that the University owns 43.5 percent of the total land within the municipality. Of the total acres owned by Edinboro University, two are large lots totaling 228 acres located across the street from the main campus.** The original intent of establishing a medical school did not occur and the land is currently utilized as open space and recreation. The University has no current definitive plan for building residential or student housing development on this land area. Development of this area with taxable properties would provide significant financial resources to the Borough. In an interview with PEL the University indicated that it had studied subdividing the parcels for housing construction but it had not moved further on the project.

Because this area of undeveloped university land comprises such a large percentage of the Borough, the loss of potential property tax revenue compounds the loss of tax base for the Borough. Of the five host municipalities examined, Edinboro was the only municipality facing the issue of significant undeveloped University land for which there appears not to be immediate use. This available land should be the subject of University planning so that excess land can be developed for single family housing either by the University or by a for-profit developer and produce taxable real estate. **The Borough in the future will need to increasingly rely on real estate tax revenue and the maintenance of a large tract of university land as tax-exempt will seriously impede the Borough’s fiscal resources.**

#### Earned Income Tax Collection

PEL has examined the Earned Income Tax collection history for Edinboro Borough. The results of this examination are applicable to the other four municipalities in this study and by extension to other municipalities that have a large population of student earned income taxpayers.

The effect on Earned Income Tax collection on the Borough:

- Students housed in on-campus dorms pay this wage tax on student earnings or off-campus earning to their home municipality, not to the dormitory host municipality.
- Students housed in off-campus rental units may or may not pay EIT to the host municipality depending on how their domicile is interpreted or if they are subject to nonresident EIT. However, the use of Federal Tax form information may send EIT revenue to other municipalities that otherwise may accrue to Edinboro.
- Employment opportunities utilized by students in off-campus employment can decrease the payment of resident EIT to the host municipality by removing that employment from the local job market. Earned Income Taxes earned by students in these jobs will follow students home rather than stay within the host municipality.
- On a statewide basis, the earned income tax is the most significant generator of municipal non-real estate taxes. The loss of collection of EIT from residents that are living within a municipality for the majority of a year becomes a fiscal detriment for the host municipality.
- Another factor involving EIT collection in a host municipality may involve the conversion of single family or multi-family home into rental units. The EIT law does allow the taxing of rental income of a deliberately acquired rental property for business income as earnings. However, many of the rental conversions reported to PEL by the host municipalities are more of the practice of renting out one's home to students, often at market rents that exceed the cost of mortgage and taxes on the home. In this case, the municipality will experience the loss of EIT on the former resident and will not recoup the EIT on the tenants if they are students paying EIT to their home municipality. In the case of Edinboro Borough, at the median family income of \$48,516, the median EIT tax loss to the Borough could be over \$700 per year per rental conversion of a family home at the median earnings level.

- The amount of Earned Income Tax that the Borough receives from its residents employed by the University is significant—over \$136,000 per year based on University reports. Single employer influence on a municipality’s finances can also be significant in other ways. As in the case of the one industry company town, the ancillary effects of the presence of a large dominant employer, from establishment of worker housing to exclusionary land control, can mitigate the revenue benefits from an employment based EIT. **Additionally, the transfer of EIT to municipalities not close to the Borough but only by the action of domicile of students constitutes a reduction of the tax base that can be measured as reduced resources for public safety and other services required by the population.**

#### West Chester Borough

Located in southeastern Pennsylvania, West Chester Borough is the county seat of Chester County. West Chester is approximately 25 miles west of Philadelphia and 92 miles southeast of Harrisburg. It is an urban center in the heart of the Philadelphia metro area; the communities which immediately surround have a suburban composition. The Borough encompasses approximately 1.8 square miles.

Between 1990 and 2000 West Chester Borough experienced a decrease in population of 180 or 1.0 percent. Chester County’s population increased by 57,105 persons or 15.2 percent in the same period. In 2000, West Chester Borough had 9,922.8 persons per square mile. Chester County’s population per square mile was 573.4 in 2000.

#### Economic Business Growth

On its face, West Chester Borough is a dynamic and affluent municipality, located in the affluent and growing suburban Philadelphia area. The Borough has aggressively used the preservation and marketing of its history and period architecture along with a very aggressive downtown revitalization program, and has leveraged and encouraged the role played by the University in the cultural, educational, and economic vitality of the region.

The downtown business district suffered through the same economic decline as most older urban “downtowns” upon the construction of suburban shopping malls and increasing suburban sprawl. By the late 1990’s, three out of four buildings on the corners of the main

intersection in downtown were vacant along with other vacant storefronts throughout the business district. West Chester Borough dedicated its economic development efforts to save and improve the quality of life in West Chester with needed public investment in a concerted effort to create economic development.

Starting in 1994, West Chester Borough began investing local tax dollars to promote economic development. The Borough began actively recruiting business to locate downtown and started an unusual local government process to market the community. A Borough partnership with the business community formed the West Chester Business Improvement District (BID). The BID levies a fee for service on commercial properties in the district to raise a substantial portion of its annual budget.

Substantial public and private investment has been made in the downtown. In 1999, the Borough spent \$5.4 million to build the six story Bicentennial Parking Garage with retail space on the ground floor. In 2004 the Borough, using state, county and municipal dollars, finished a \$1.2 million streetscape improvement project along five blocks of Market Street. The BID has distributed \$110,000 in DCED façade improvement grant funds to 35 local projects and generated much larger investment from private owners. In 2005 the Borough of West Chester contracted for the installation of a \$150,000 “wayfinding signage program” to assist visitors to locate major points of interest in town. Funds have been secured and design plans are underway for another \$400,000 streetscape improvement project that will renovate two additional blocks downtown in 2006. West Chester was named one of the first Elm Street communities in the state and is preparing to utilize that specialized improvement funding to revitalize the moderate income east end neighborhood near the downtown.

Many organizations and experts have recognized West Chester: it was named "Best New Shopping District" by Philadelphia Magazine in 2003; in 2004 West Chester was designated by Pennsylvania DCED as a "Main Street Achiever Program"; in 2005 the Borough was awarded Best Overall Design of 25 Years of Main Street in Pennsylvania by the Pennsylvania Downtown Center in Harrisburg; in 2005 Preservation Pennsylvania presented a Pennsylvania Historic Preservation Government Award. Finally in 2006 the National Trust for Historic Preservation named West Chester as one of a Dozen Distinctive Destinations in the nation.

West Chester today has experienced an economic renaissance that is described as remarkable and as an example to other towns. West Chester is a community with many

historical architectural treasures, tree lined streets, brick sidewalks, busy restaurants, and interesting shops with sustained economic activity. There are currently 47 restaurants in the West Chester BID district serving every kind of cuisine, many with sidewalk cafes. The downtown streets are alive with people both day and night. Unique shops and boutiques offer shopping experiences and many art galleries provide additional cultural enrichment. A series of downtown special events are attended by residents and visitors. Based on Borough reports, in the five years from 1999 to 2004, the market value of commercial properties within the business improvement district increased from an average of \$41.12 to \$118.51 per square foot. In 2005 the average sale price increased to \$180.28 per square foot, a 338 percent increase in a little over five years. In 2004 the first new five story office building since the early 1900's was constructed in the Borough with another five story office addition opened in early 2005. There are three other multi level private office buildings currently under construction. The Philadelphia Inquirer in a feature article examining West Chester posed the rhetorical question "Is West Chester the Perfect Town"?

#### Economic Growth and Development and Tax Revenue Deficiencies

With all of that economic development success one might assume that West Chester Borough's local government is enjoying fiscal benefits and rewards from the development achievement. However, the Pennsylvania local government tax system produces significantly less revenue than expected. West Chester has experienced mounting demand for municipal services due to the commercial success of the downtown but has gained little new revenue from this success to fund municipal services. The many successful restaurants and bars create a heavy demand for police services to deal with late night alcohol related problems but there is no additional revenue to meet that need.

In Pennsylvania, Boroughs and Cities the real estate tax assessment and, therefore, the new tax levy, grows largely through open green space new construction development. Real estate assessments grow very little through Borough and City redevelopment of existing buildings. Despite the fact that West Chester has a busy and successful downtown surrounded by desirable neighborhoods, the assessed value of taxable real estate has grown from \$596,269,100 in 1998 to \$624,065,900 in 2005 with much of that growth from a few new construction projects. This increase of 4.66 percent over a seven year period is 0.66 percent per

year on average. The actual tax revenue produced by local millage and from the assessment growth of \$110,000 (over a seven year period) is not enough to pay an annual wage increase for the Borough workforce for one year.

In order to achieve its economic revitalization, West Chester has invested in the community by funding a Commerce Department, a Business Improvement District, a parking garage, a streetscape project and a wayfinding sign project. From 1998 through 2005, the Borough has invested local funds including \$180,000 in the Commerce Dept., \$350,000 in the BID, \$225,000 in streetscape funds, \$50,000 in the wayfinding sign program and \$5.4 million in the parking garage. Most of these projects except for the parking garage also involved far more investment of state and county grant funds above the Borough contribution. During that seven year period the Borough has invested \$805,000 in economic development projects plus \$5.4 million in a parking garage for a total of \$6,205,000. A local investment of \$6.2 million has spurred an economic renaissance but has generated only \$110,000 in new real estate revenue for Borough services after seven years, as a result of the Pennsylvania local government tax system. Downtown revitalization has not created a significant number of new residential units resulting in no real increase in the local earned income tax revenue. **The municipal tax revenue results of the economic development experience of West Chester do not provide a strong argument for local economic development investment as a means of producing new local tax revenue. The quality of life and market values in the community are greatly improved but the lack of government financial resource gains to meet increased service demands is an artifact of and a detriment to the local government tax system in Pennsylvania.**

As a direct example of the inability of the local government tax system to provide additional needed resources for an older urban community the impact of one major renovation project in downtown West Chester was examined. In 1998, an empty 10,000 square foot “five and dime store” on the main corner in town was assessed at \$646,000 yielding \$2,551 in Borough real estate tax revenue. It was converted into a very successful brew pub and restaurant with private investment of over \$1 million in renovations. The restaurant brings thousands of people into town on a weekly basis and has 247 employees. It is currently assessed at \$1,109,700, at the 1998 tax rate it would have produced \$4,382 in real estate revenue for the Borough or an increase of \$1,831 over its 1997 tax revenue. Some of the 247 employees do live in the Borough and pay earned income tax. This highly successful restaurant has created an

increase in Borough revenue from the two major municipal tax sources of \$8,452 based on Borough records. That amounts to about 10 percent of the cost for one yearly police officer salary and benefits.

West Chester sparked the success of its downtown revitalization and the opportunity to flourish for restaurants, bars, shops and businesses. But in order to meet increased service demands, local government must be able to share in the consumer sales expenditures the expanding economy has created. One proposed solution would allow a local tax option of 10 percent tax on alcohol sold by the drink such as in Class 'A' cities (Philadelphia). In addition, some sharing of the state sales tax for local services could be utilized, as done in Allegheny County. Otherwise there is a significant shift of the tax burden to the residential neighborhoods or a reduction of services or both. Residents of a community should not have to trade higher taxes for a healthy economy. **The opposite should be true: good economic development should be able to subsidize additional municipal services.**

#### Conclusions

As shown above, two very different municipalities at different locations of the Commonwealth have attempted to increase their tax revenue base. One by shifting its tax burden to non-real estate tax under Home Rule, another by aggressively creating an economic development environment by committing public dollar investment.

Both municipalities have the same pressures to provide needed and desired public services, both have had to raise tax rates to provide for this level of service. It is clear in the case of Edinboro Borough that a small urban center in a rural setting must compete with the attraction of residents to neighboring townships that do not provide extensive public service but do provide lower tax burdens. The competitive disadvantage of the Borough's near requirement to maintain a full time police force and to fund it with its tax base negates any local tax base growth that may have occurred in the past, particularly the growth that was the result of the University. While Edinboro's financial stress is not unique in small boroughs, the necessity of providing services that are not necessarily required of its counterpart boroughs or of the surrounding townships does provide a unique stress upon the Borough's budget. Based on discussions with the Borough, the elimination of a full time police force is under serious consideration but the damage of no police to the University's civic environment means any real reduction in expenditures is not feasible.

In the case of West Chester Borough, a location among the fastest growing and wealthiest areas of Pennsylvania also does not generate local tax dollars to fund required services. The actual revenue received by West Chester as a result of its exemplary economic development activities compared to the effort and dollars expended is negligible. It is the result of the system of local government finance in Pennsylvania. Local economic growth does not translate into local tax dollars. Often, it translates into local governments expenditures at a level beyond its neighbors.

CHAPTER 6  
UNIVERSITY POLICE AUTHORITY, JURISDICTION, AND PRACTICE  
IN MUNICIPALITIES

There are three basic categories of colleges and universities in Pennsylvania: State-Related Commonwealth Universities (University of Pittsburgh, Pennsylvania State University, Temple University, and Lincoln University); State System of Higher Education Universities (Bloomsburg, California, Cheyney, Clarion, East Stroudsburg, Edinboro, Indiana, Kutztown, Lock Haven, Mansfield, Millersville, Slippery Rock, Shippensburg, and West Chester); and 112 private institutions.

The officers in police departments at state related and state owned universities are generally certified by the Municipal Police Officers Education and Training Commission under Act 120. Officers at private colleges and universities are sworn under Act 501 and, although not required, many are Act 120 certified.

The police departments at state owned universities (State System of Higher Education-SSHE) can enter into cooperative police service agreements (mutual aid) with municipalities which overlay or abut the university campus. These agreements are voluntary and are authorized by 42 PA.C.S. 8953. The jurisdictions of university and college police differ by category of institutions. State related commonwealth university police have jurisdiction in a 500-yard zone around any university owned, leased, or managed property. SSHE police have jurisdiction on university owned or leased property and public property which is adjacent to the institution. Private college and university police have the same type of geographical jurisdiction as SSHE owned universities.

SSHE, State Related University, and private college police off-campus functions in municipalities have generally been restricted to assisting municipal police and the pursuit of suspects whose violations occurred on campus. Although police services agreements would allow campus police to take enforcement actions or answer calls in municipalities, most university police departments do not provide call service or patrol off their campuses. The University of Pittsburgh (a state-related university) does provide assistance to the City of Pittsburgh in the Oakland neighborhood of the City. The University of Pittsburgh police committed a significant number of officers to assist city officers in controlling post Super Bowl

celebrations and in controlling on going peace rallies and protests in the Oakland neighborhood of Pittsburgh.

The University of Pittsburgh Police Department committed officers, including a Special Response Team, to assist the city during the Major League Baseball All-Star game in July of 2006. The University of Pittsburgh Police Department, however, does not respond to calls for service off campus unless requested by the City police. The University of Pittsburgh Police Department has an authority boundary of 500 yards outside of university owned, leased, or managed property. All University of Pittsburgh Police officers have been trained under Act 120. The University does not have a written mutual aid agreement with the City.

The Pennsylvania Administrative Code, (Section 2,146) grants police authority to the officers at SSHE and State Related university police departments. Additionally, under PA Act 24, these university police departments may enter into police service agreements (mutual aid) with surrounding municipalities. Concurrent jurisdiction may be established through this agreement.

In February, 2004, SSHE and state related university police officers were included in the Municipal Police Jurisdiction Act, 42. PA C.S. This gives the same authority to university police as that of municipal police. The primary jurisdiction of university police is the university campus and property. The Pennsylvania Administrative Code and Acts 24 and 48 does not mandate that university police exercise authority off of university property nor are university police mandated to enter into mutual aid agreements.

Not all of the SSHE university police officers are armed. The officers at California University and Indiana University do not carry firearms. Commonwealth legislation in committee for 2005-2006 would require that all officers at SSHE universities be armed. There is no current accurate date of when—or if—this bill will become effective. Lock Haven University officers carry weapons only with specific approval of the University Vice President. It is PEL's understanding that the policy is being changed.

Although the police departments at SSHE universities and state related universities have the same authority and status as municipal police officers, their geographical jurisdiction is generally limited to their campuses and immediately adjacent areas. State related universities have a 500 yard extension of jurisdiction around any university owned or leased properties. Concurrent jurisdiction can be established through a police services agreement although SSHE

and state related universities are not mandated to enter into such agreements with municipalities. Most SSHE university police departments do not have written agreements with municipalities although virtually all will respond if requested to assist municipal police and some will respond to calls in municipalities if requested by the municipal police department.

There are several pertinent issues regarding municipal police protection for a host municipality of a college or university. Police departments' authority and responsibility are based and restricted by geography, not population. It is commonly recognized that the presence of a university can place a burden on the police resources of a host community. Resident college aged people are generally responsible for more civil disorder and certain violations than older people; the presence of a college or university will impact police requirements in a community due to the increased numbers of young people and the different social schedule for their activities. Disorder caused by the use of alcohol, sporting events, or civil demonstrations is more likely in a community which has a college or university student population.

University police departments are structured and deployed to protect university resources, students, faculty, staff, and visitors. Consequently, university police perform functions not generally performed by municipal police. These functions can include locking and unlocking buildings, medical transports, and escorts of students at night. University police departments generally have extensive crime prevention programs and provide assistance to the student affairs departments of universities. In addition to university specific responsibilities, university police perform the traditional law enforcement functions of patrol and investigation on campus. These traditional functions are performed when a crime is reported on campus. Faculty, students, and visitors to the university campus are included in these traditional law enforcement services. University police do not commonly investigate felony (murder, rape, assaults, etc.) crimes alone but rather seek assistance from municipal, county, or state agencies.

University police are very often deployed on foot or on bicycles. This could make response to surrounding municipal areas difficult. University officers are scheduled to meet the demands of university operations which may be different than peak demand periods in the host municipalities. As an example, most universities deploy more officers during university move-periods, homecoming events, and football games, and the peak activity times are during the school year, generally from late August to June. This is opposite of the peak times for the typical municipal police which is usually during the summer. However, host municipalities may have

less need for police protection in the summer based on the absence of the student population. Nonetheless, municipal police contracts and employment expectations of full-time employees require summer police manpower regardless of local activity in the host municipalities.

There is a common misperception that universities are responsible for the actions and behaviors of their students anywhere including off campus. While most universities have student conduct codes which hold students responsible for violations of student conduct rules off campus, violations of this code result only in internal university disciplinary action. Arrests and citations issued to students by municipal police can result in university internal disciplinary hearings for the students in addition to any legal action brought by the municipality.

Since police jurisdictions are geographical, violations of law by students off campus are primarily the responsibility of municipal police. Conversely, violations of law on a university campus by anyone (faculty, students, or visitors) are the responsibility of university police. University police are responsible for investigating actions by host municipality residents and visitors if the actions occur on campus. Municipal police are responsible for university personnel including students if the actions occur off campus.

Universities are reluctant to expose themselves to potential liability as a result of actions by their police force in circumstances and jurisdictions which are not well defined. Even though authority off campus has been granted to police for state related and state owned universities without a written mutual aid agreement in place actions such as stopping a motorist or conducting a stop and frisk under *Terry v. Ohio* could present legal questions. Random patrol and enforcement actions off campus without a written agreement could be questioned.

The National Association of College and University Attorneys has issued a document to its members titled *Campus Police Authority: Understanding Your Officers' Territorial Jurisdiction*. This review examines the authority and liability of campus police and cautions universities to strictly follow state laws on jurisdiction. Courts in the decision of *Henderson v. Fisher* in Pennsylvania (Third Circuit) have held that officers of university police acting outside of their campuses are agents of the state.

Because of these liability issues, university police are reluctant to act in municipalities unless requested by the local police or pursuant to a prior written agreement. University police performing enforcement action outside of the physical boundaries of university property become in effect municipal officers. While this does allow latitude in enforcement for university police,

it raises concerns of liability for universities as the employers of the police. Some universities are reluctant to enter into agreements because they want to concentrate their police resources on campus.

An issue for universities is the Jeanne Clery Disclosure of Campus Security Policy Campus Statistics Act of 1990. This federal law requires that universities disclose crime on or near their campuses yearly and was a result of the murder of Jeanne Clery at Lehigh University in 1986. The Clery Act requires that universities report all crimes reported to them or crimes of which they are aware. The act is the only federally mandated crime reporting act in the United States and carries severe penalties for not accurately reporting crime. Universities may be reluctant to answer municipal police calls which they feel may be subject to university reporting as Clery statistics. Crime statistics must be maintained for a three-year period and must be made available to anyone requesting the data.

University police may respond to calls off campus differently than on campus. The most obvious off campus violations by university students are underage alcohol possession and disorderly conduct. Alcohol violations are a common occurrence at universities; often underage alcohol possession or consumption is handled by the university through a disciplinary board rather than a citation to a court. Municipal enforcement would likely require that alcohol violators be cited into court. Disorderly conduct often begins off campus or in a fraternity or sorority house. Some universities own or control fraternity and sorority houses, however, others do not but instead recognize or sanction the student organizations sponsoring these homes. Fines levied by magistrates or other courts for these violations are not returned to the universities but are sent to the appropriate municipal jurisdiction even if the citation was issued by a university police officer.

The size of SSHE university police departments affects the ability to provide services off campus. The average sworn strength of a SSHE university police department is 14.7 officers. This average strength allows for a maximum deployment of three officers regularly on any given shift. Although it is recognized that many municipalities surrounding universities have even smaller departments covering a larger population, when call response is to be considered, the deployment level is critical. Calls such as an alarm or disturbance will require response by more than one university officer. This can leave one university officer available for subsequent calls. If officers are deployed off campus, it is conceivable that there would be periods of time with no

officers available for university calls. The same manpower concerns will be evident in the host municipality when police must contend with Thursday through Sunday student activities.

The budgets of university police departments are established by the university and generally address only the law enforcement and security needs of the campus. These budgets are usually not increased by any large amount. University police departments commonly employ security guards, student interns, or enter into contracts with private companies for security in addition to employing sworn police officers. These security guards have very little legal authority and are of little consequence in a mutual aid arrangement. Unless supplemental state funding is obtained, the deployment of university police officers into municipalities is a drain on the university police department budget. In addition to the loss of officers to municipal calls, any overtime incurred in booking and transporting prisoners, writing reports, or attending court is an expense which must be born by the university police department. Since these departments do not receive any portion of fines or traffic citations, it is a net financial loss. There is also a cost to municipalities to respond to calls involving students although such call response is generally considered to be a municipal police function and not a university function. Nonetheless, municipal time spent in court time, travel time, and holding of offenders impairs the ability of municipal police to perform other required duties.

### Conclusions

Universities and municipalities may enter into mutually agreed upon concurrent jurisdiction arrangements. As communicated to PEL in its interviews, some university officials do not believe a mutual aid agreement is necessary or warranted based on their view that off-campus policing, except in emergencies, will not occur. If no mutual agreement is signed, university police have limited authority in municipalities. State statutes authorize police services agreements (mutual aid) between universities and municipalities but do not mandate any agreements. While there is no standardized police mutual aid contract in the state, a specimen contract is available from the International Association of Chiefs of Police. This model was developed in conjunction with the National Criminal Justice Reference Service which is a component of the United State Department of Justice. This model can be accessed through the NCJRS website at <http://www.ncjrs.gov/pdffiles1/bja/210679.pdf> “Mutual Aid: Multijurisdictional Partnerships for Meeting Regional Threats.”

The presence of a university can cause a burden on municipal public safety resources. University student-aged people tend to be more involved in alcohol violations and other disorderly offenses than older persons. These activities also occur at times when the resident population is less active, requiring police protection at an additional rate and additional staffing levels. Conversely, the presence of a university is a benefit to the local economy by providing employment at the university and through the consumption of goods and services by university students and visitors.

Most university police departments do not have mutual aid contracts with the host municipalities. Most university departments when requested will assist host municipal officers and will assist in emergency situations. Most university departments, when requested, will assist other surrounding departments without a written contract. The type, numbers, and duties of responders by either the university or municipality must be specified in any proposed contract. It is likely that universities will continue to respond to direct requests for assistance and would sign emergency aid contracts. It is not likely that contracts which provide for campus perimeter law enforcement, routine patrol, and /or regular call response will be readily accepted.

Universities are hesitant because of the potential liability, loss of service, and costs of assistance to municipalities. It is generally recognized that the university and the host municipality have mutual responsibilities. The municipality may respond to an inordinate number of calls concerning university students and may lack sufficient manpower to address these issues on regular basis. The municipal police cost of call response and overtime scheduling will be higher on weekend nights and during times of special events such as homecoming.

Concurrent jurisdiction would benefit municipalities by providing more resources to handle calls and events involving university students and staff. This jurisdiction would benefit universities by allowing better coverage of off campus events such as large parties, homecoming parades, athletic events, and similar occurrences. There will not be a financial benefit to universities in such agreements if routine calls and citations are considered. There will be a benefit to municipalities if university police routinely answer calls, make arrests, and issue citations off university property. Additional state funding to bridge this gap appears to be necessary.

Since mutual aid agreements do not usually contain fiscal reimbursement clauses, the actual cost of operations would be born by the employing agency of the officers used in the agreement. This is generally a reason that routine functions such as call response and patrol are not often included in mutual aid. Emergency mutual aid agreements that address emergency or unusual circumstances are more common. Issues such as weather emergencies, large scale civil disorders, or visits by dignitaries are often reasons for invoking mutual aid. Situational circumstances such as an unusually large volume of police calls for a short period of time can also be a reason to use mutual aid.

Emergency mutual aid agreements would be a benefit to both universities and municipalities in addressing unusual occurrences which could overwhelm the police resources of either. The use of university police to routinely answer calls and complaints in municipalities would be a benefit to the municipality in adding resources but could strain university resources. There is a benefit in enhancing “town and gown” relationships by engaging in mutual operations. However, the issue can be reduced to the availability of funding for such agreements. Any agreement must be specific to the municipality and the university and consider the political environments, budgets, enrollments, and size of the university; therefore one model agreement may not be appropriate for all jurisdictions. Specific duties, responsibilities, costs, indemnification, and command and control protocols must be included in any agreement, however, without an agreement, concurrent jurisdiction is not possible for daily operations.

**State System of Higher Education Universities**

University	Approx. Student Enrollment	Sworn Officers	Students per Officer	Act 120	Mutual Aid Authority	Armed
Bloomsburg	8,000	17	471	Yes	Yes	Yes
California	6,640	14	474	Yes	Yes	No
Cheyney	1,400	14	100	Yes	Yes	Yes
Clarion	6,500	11	591	Yes	Yes	Yes
East Stroudsburg	6,500	14	464	Yes	Yes	Yes
Edinboro	8,000	14	571	Yes	Yes	Yes
Indiana	14,000	21	667	Yes	Yes	No
Kutztown	9,800	14	700	Yes	Yes	Yes
Lock Haven	5,300	9	589	Yes	Yes	Yes
Mansfield	3,390	11	308	Yes	Yes	Yes
Millersville	8,000	15	533	Yes	Yes	Yes
Shippensburg	7,600	17	447	Yes	Yes	Yes
Slippery Rock	8,100	16	506	Yes	Yes	Yes
West Chester	13,000	20	650	Yes	Yes	Yes

Source: State System of Higher Education, Individual Contacts

\* Only with specific approval of supervising Vice President in the process of change.

**State-Related Commonwealth Universities**

University	Student Enrollment	Sworn Officers	Students per Officer	Act 120	Armed*
Penn State*	41,000	46	891	Yes	Yes
Pitt*	23,000	74	311	Yes	Yes
Temple*	33,000	115	287	Yes	Yes
Lincoln	2,200	22	100	Yes	Yes

\*Main campus

**Host Municipalities**

Host Municipality	Approximate Student Dorm Population - 2000	2000 Total Population	Full Time* Municipal Officers 2005	Persons Per Full Time Officer
Bloomsburg Town	2,758	12,448	15	830
Edinboro Borough	1,904	6,950	9	772
Lock Haven City	1,686	9,149	13	704
Millersville Borough	2,479	7,869	12	656
West Chester Borough	3,121	17,873	45	397

\* Full-time count may differ from case study number because of different time periods and source documentation.

Section 2416.1 of the Administration Code of 1929  
(Act 57 of 1997)

**Section 2416.1 Campus Police Powers and Duties.**

- (a) Campus police shall have the power and their duty shall be:
- (1) to enforce good order on the grounds and in the buildings of the college or university;
  - (2) to protect the grounds and buildings of the college or university;
  - (3) to exclude all disorderly persons from the grounds and buildings of the college or university;
  - (4) to adopt whatever means may be necessary for the performance of their duties;
  - (5) to exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipalities wherein the college or university is located, including, but not limited to, those powers conferred pursuant to 42 Pa.C.S. Ch. 89 Subch. D (relating to municipal police jurisdiction);
  - (6) to prevent crime, investigate criminal acts, apprehend arrest and charge criminal offenders and issue summary citations for acts committed on the grounds and in the buildings of the college or university and carry the offender before the proper alderman, justice of the peace, magistrate or bail commissioner and prefer charges against him under the laws of this Commonwealth. Except when acting pursuant to 42 Pa.C.S. Ch. 89 Subch. D, campus police shall exercise these powers and perform these duties only on the grounds or within 500 yards of the grounds of the college or university. For the purposes of applying the provisions of 42 Pa.C.S. Ch. 89 Subch. D, the grounds and within 500 yards of the grounds of the college or university shall constitute the primary jurisdiction of the campus police;
  - (7) to order off the grounds and out of the buildings of the college or university all vagrants, loafers, trespassers and persons under the influence of liquor and, if necessary, remove them by force and, in case of resistance, carry such offenders before an alderman, justice of the peace, bail commissioner or magistrate; and
  - (8) to arrest any person who damages, mutilates or destroys the trees, plants, shrubbery, turf, grass plots, benches, buildings and structures or commits any other offense on the grounds and in the buildings of the college or university and carry the offender before

the proper alderman, justice of the peace, bail commissioner or magistrate and prefer charges against him under the laws of this Commonwealth.

- (b) Campus police and municipalities are authorized to enter into an agreement with the municipality wherein the college or university is located to exercise concurrently those powers and to perform those duties conferred pursuant to a cooperative police service agreement in accordance with 42 Pa.C.S. 8953 (relating to Statewide municipal police jurisdiction). When so acting, the campus police of the college or university shall have the same powers, immunities and benefits granted to police officers in 42 Pa.C.S. Ch. 89 Subch. D.
- (c) When acting within the scope of the authority of this section, campus police are at all times employees of the college or university and shall be entitled to all of the rights and benefits accruing therefrom.
- (d) As used in this section:
- "Campus police" means all law enforcement personnel employed by a State-aided or State-related college or university who have successfully completed a campus police course of training approved under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

"College" or "university" means all State-aided or State-related colleges and universities.

"Grounds" means all lands and buildings owned, controlled, leased or managed by a college or university.

## Act 48 of 2003 and the Municipal Police Jurisdiction Act—Opposing Interpretations

As discussed in the prior section of this Chapter, legislation was enacted by the State legislature and signed by the Governor in 2003 (Act 48) and early 2004 (amendment to the Municipal Police Jurisdiction Act) which it was believed would clarify and provide for effective police relationships between municipal police departments and those of the State System of Higher Education departments.

However, different interpretations of the legislation soon became evident. The principal areas of difference appear to center on what actions or activities may be included in a mutual aid/cooperation agreement and which police department has primary jurisdiction on university campuses. These differences of opinion are demonstrated in two specific instances, one in West Chester Borough, and the other in Edinboro Borough.

In the summer of 2004, West Chester Borough's Chief of Police wrote to West Chester University's Vice President of Student Affairs regarding the instituting of a new police mutual assistance/cooperation agreement between the Borough and the University. From the Borough Police Chief's perspective the primary purpose of the new legislation (Act 48 of 2003) was to enable the university police (through a police mutual assistance agreement) to assist in policing university students who lived off campus.

To this end, the Borough's Police Chief requested that the University provide supplemental patrol support in the form of three University Bike Patrol Officers who would accompany the Borough's officers on patrol between 21:00 hours and 03:00 hours each Thursday, Friday, and Saturday.

The University's Vice President for Administrative and Fiscal Affairs responded to the Chief and stated that pursuant to the Chief's request the University had solicited guidance on the issue from its legal counsel.

The Vice President goes on to state that the new legislation introduced two changes. First, the State System of Higher Education (SSHE) University police officers now have the same powers as municipal police as outlined in the Statewide Municipal Police Jurisdiction Act. Second, the SSHE universities are permitted to enter into cooperative police service agreements to engage in police actions.

However, the Vice President states that pursuant to Section 8953 of the Statewide Municipal Police Jurisdiction Act, the University's officers **possess police powers off campus in only six specific cases**. Further, the response continues, the University's legal counsel advised the University that the Borough's request for patrol assistance off campus is not one of the six specific cases. Therefore, the Vice President concludes, the University could not participate in the proposed mutual aid/cooperation agreement.

A second area of significant disagreement is the interpretation of the role which Act 48 plays in conjunction with the Municipal Police Jurisdiction Act as defined (42PaCSA 8951-8953) and centers around the Edinboro Police Department's contention that it has primary jurisdiction anywhere in the municipality including the University.

A contrary position seems to be held by the Erie County District Attorney. The District Attorney's opinion is that the university police have primary jurisdiction on campus and if they so elect may take control of an investigation. Therefore, the municipal police would no longer have jurisdiction in the particular case.

Both the boroughs of West Chester and Edinboro sought guidance from the Pennsylvania League of Cities and Municipalities (PLCM) which had been instrumental in the passage of Act 48. PLCM in turn sought a legal opinion on the two issues described above.

With respect to the West Chester situation, the opinion of PLCM counsel was that the University may enter into cooperation agreements under any reasonable parameter agreed to by the parties. Specifically the opinion quotes 24PaCS 20-2019 A (b):

- (b) An institution authorized to enter into an agreement with the municipalities overlain or abutting its campus to exercise concurrently those powers and to perform those duties conferred pursuant to a cooperative police service agreement in accordance with 42PaC.S. 8953...

In terms of the Edinboro situation, the opinion of the PLCM counsel is that both the municipal police and university police have "primary jurisdiction" on the University's campus. That is to say that, under Act 48 and 42PACSA 8951-8953, there is "concurrent jurisdiction" on the campus for both police departments.

PEL cannot offer a "legal opinion" on which interpretation is correct. However, PEL does realize that the unresolved differences make it much more difficult to have effective use of mutual/cooperative agreements to assist normal police operations in host municipalities.

These differences in interpretation are of even greater concern if a major criminal or catastrophic event (such as a pandemic or other community/region wide emergency) should occur requiring an integrated cooperative solution. Further, PEL is of the opinion that these differences preclude the development of a rational comprehensive plan for effective use of both police forces. PEL believes that it would be in the best interest of all parties to come to a common interpretation and if necessary seek clarifying legislation.

## CHAPTER 7

### THE EXPERIENCE OF OTHER STATE GOVERNMENTS

The fiscal impact of state universities on host communities is an issue of varying concern throughout the nation, depending on immediate circumstances in particular localities. Differences in the characteristics of institutions of higher education and the municipalities in which they are located tend to obscure their common interests and discourage concerted action. Consequently, only a few state governments have established an ongoing program to address the relationship between the tax-exempt status of universities, their service demands, and municipal revenue.

In most states, financial issues that arise between universities and their host municipalities are resolved through negotiations at the local level – or remain unresolved. University administrators consistently assert that the economic benefits they bring to the community more than compensate for the cost of providing public services to their institutions. On the other hand, local government officials throughout the United States insist that, although they appreciate the universities' ongoing contribution to the basic economy of the region, institutions of higher education pay less than a full share of costs for the services they require – at least in those municipalities that provide off-campus housing and attract a large number of students at night and on weekends. Despite these differences in perspective, some host communities in other states have successfully negotiated agreements with their universities. While a few agreements have resulted from collaborative planning, many represented compromises in reaction to coercive measures (such as changes in zoning ordinances or procedures) imposed or contemplated by the host municipality.

- **Payment in Lieu of Taxes (PILOT)**

The most direct method of state intervention to compensate municipalities for hosting state-owned facilities is a payment in lieu of taxes (PILOT) based on the assessed value or market value of that tax-exempt property.

Under a program begun in the 1970s, Connecticut currently appropriates \$78,000,000 from the general fund to compensate cities and towns for the presence of state-owned facilities (including prisons, institutions of higher education and hospitals) and remits an additional

\$111,000,000 to municipalities for private colleges, universities and hospitals within their boundaries. On a statutory basis, Connecticut's municipalities are reimbursed at a 100 percent rate for "lost" property taxes on prisons, but receive only 45 percent of the taxable equivalent in the case of public universities and hospitals. The statutory payment in lieu of taxes to municipalities for the tax-exempt property of private colleges, universities and hospitals is 77 percent of the amount that would have been collected from a taxable entity. The latter program is often characterized (in the words of the Connecticut Conference of Independent Colleges) as "a model for the nation." Nevertheless, some municipal officials in Connecticut are unhappy with the legislature's failure to fund the full statutory standard in recent years, effectively reducing the PILOT percentage and causing some budgetary uncertainty. In New Haven, community activists continue to insist that Yale University, which contributes more than \$2,000,000 of its own funds to its host municipality, should make up the entire difference between the state PILOT and the taxes that would be due from a for-profit enterprise.

Since 1988, the Rhode Island legislature has appropriated funds (nearly \$27,000,000 in 2006) to municipalities to offset a portion (27 percent) of the loss of property taxes on certain state-owned facilities (hospitals, veterans' homes and prisons) – as well as on nonprofit hospitals and private nonprofit colleges and universities. Interestingly, state institutions of higher education are not included in Rhode Island's PILOT allocations. Despite state payments on its behalf, the largest private university, Brown, was threatened in 2003 with a municipal challenge to its tax-exempt status unless it began to make an additional contribution to defray the cost of services provided by the City of Providence. After vigorous assertion of the traditional right of exemption from taxes by all of the City's private colleges and universities, Brown agreed to pay more than \$1,000,000 annually and make a lump-sum contribution of \$1,300,000 as compensation for taking properties off the tax rolls as a result of recent acquisitions.

New Jersey initiated a PILOT effort in the 1970s to cover state universities and other public facilities, but that compensatory program was folded into the state's revenue-sharing allocations several years ago.

Although recommended for consideration in Pennsylvania by The Brookings Institution in their December 2005 report, "Higher Education in Pennsylvania: A Competitive Asset for Communities," a PILOT program based strictly on assessed valuation would be difficult to apply equitably in communities hosting facilities of the Pennsylvania State System of Higher

Education (SSHE). Determining the appropriate amount of state funding would, of course, be a matter of debate. As mentioned in the case studies, it appears that there would need to be specific legislation to permit PILOTS to be made by the SSHE to municipalities.

The equitability of the PILOT approach as a method of reimbursing municipalities for the net fiscal impact of a university can be questioned in four respects:

- How accurate and consistent is the process of determining and maintaining current assessed values for such special-purpose buildings as sports facilities, laboratories and lecture halls throughout the state?
- Is the assessed value of a university's property likely to be closely connected with the nature and cost of services provided by its host municipality?
- Should municipal governments be fully compensated for the property taxes not paid because of the universities' exempt status? If not, what is a reasonable percentage of the total tax that would otherwise be due?
- What provision should be made for municipalities that have no university property within their boundaries but are adjacent to a campus – and consequently bear the cost of university-related services, such as additional police protection?

- **State Support for Specific Services**

In some states, the legislature has appropriated funds to compensate municipalities for specific services provided to state-owned facilities.

Since 1973, the Wisconsin legislature has authorized a Payments for Municipal Services Program that takes into account the value of all state buildings as a proportion of the “equalized full value of local taxable improvements,” as well as municipal revenues and expenditures. The 2006 appropriation of \$22,000,000 is distributed by means of a formula that, as described by the Department of Administration, “calculates, in effect, a form of ‘mini-tax’ for police and fire protection service and solid waste handling (where applicable) for each facility.” Compensation to municipalities for services to state-owned university buildings is partially covered by general purpose revenues and partially funded by each institution, based on an additional formula computed by the University of Wisconsin System. The main campus at Madison will contribute approximately \$5,000,000 for 2006, while the other twelve university sites will pay a total of nearly \$2,000,000 to their host municipalities. In addition, the state distributes a similar amount

directly from the Payments for Municipal Services Program to compensate local governments for services attributable to university facilities.

The legislatures of Michigan and Illinois appropriate funds to municipalities for fire protection of state facilities. They also permit negotiations for additional payments by state-owned universities to the local governments that serve them.

- **Negotiated Agreements**

Because revenues, levels of service and “town/gown” relations vary greatly from one municipality to another, direct negotiations between local government officials and university administrators have frequently proved to be the best method of achieving adequate compensation agreements in various states throughout the country. Most of these agreements have received little attention beyond the immediate locality because they ordinarily relate to a specific issue (a parking lot, a fire truck or a street sweeper) and involve a comparatively small dollar amount.

Occasionally a fiscal dispute between a state university and its host municipality becomes so intense that it attracts widespread attention. During the last three years, the city of Berkeley, California and the town of Plymouth, New Hampshire have obtained service payments from state universities within their borders after considerable public controversy. However, remittances under these agreements are far less than the municipalities believe to be fair. Efforts to elicit state support for municipal services provided to the universities have been unsuccessful in both California and New Hampshire.

Glassboro, New Jersey has amicably negotiated a year-to-year property-by-property agreement for a payment in lieu of taxes by Rowan University to compensate, to some extent, for the fiscal impact of that institution’s continuing expansion. In Massachusetts, relations between the state university and the town of Amherst (also host to two private colleges) have become so cordial that a previous local agreement has been allowed to lapse in favor of ongoing collaboration in matters of economic development and financial responsibility for municipal services.

Within Pennsylvania, an agreement by which Penn State pays an impact fee to Centre County and several of its municipalities was reached while a lawsuit concerning the validity of taxing certain university properties was undergoing appellate review.

### Applying the Experience of Other States

As described in the previous section, two state governments currently compensate their municipalities for the loss of revenue from tax-exempt universities by means of a payment in lieu of taxes (PILOT) based entirely on assessed value. Three other legislatures are known to allocate funds to defray the cost of specific services provided by local governments to state universities and other public facilities. However, in most states, municipalities either negotiate agreements with the institutions of higher education they host or simply accept the fact that university property is exempt from local taxation.

- **State Payments to Municipalities**

State government payments to municipalities as compensation for hosting Pennsylvania State System of Higher Education (SSHE) universities would presumably be based on numerical criteria, such as the assessed value of each institution's tax-exempt property in relation to the assessed value of taxable property within the host municipality. The number of university students versus the local population might also be included in the computation. However, it is questionable whether a statewide formula could be devised to make an equitable match between a payment to each municipality and the actual net fiscal impact of the specific university within its boundaries (or located nearby).

*As described later in this section, the most promising approach appears to combine an uncomplicated statewide formula with local cooperative agreements.* After a fund is authorized to provide annual payments to the primary impacted municipality (the host or adjacent borough) in each region in which a SSHE university is located, allocation of funds from the state could be based on each university's full-time-equivalent student population for the preceding year. For example, a primary impacted municipality hosting or adjoining a university with ten percent of total SSHE enrollment would receive ten percent of the total state appropriation for compensatory payments in the region. Each municipality receiving the funds would then be required to make a good faith effort to reach a cooperative agreement with neighboring municipalities to distribute the regional allocation among them in proportion to the cost of services and loss of revenue resulting from the presence of the university.

Before examining how this relatively straightforward compensatory arrangement might be implemented, it would be useful to consider the difficulties involved in designing a single, comparatively complicated, statewide formula for making an equitable distribution of funds to specific municipalities in each region impacted by a SSHE university.

The net fiscal impact of a tax-exempt institution on a municipality varies with the scope of services provided, as well as with the local cost structure. Some of those costs, such as special fire fighting equipment, may be incurred only because of the presence of the university (and the nature of its buildings, such as laboratories or high-rise structures), while others may be attributable to purely local service preferences, with no particular benefit to an institution of higher education. In some cases, fire protection services are provided by volunteers from several municipalities in the region and currently receive some form of financial support from the local university.

The distribution of university-related revenues, such as property taxes on the residences of faculty members or business privilege taxes on sales to students, among municipalities is different in each region that hosts a SSHE facility. Those revenues are influenced by many factors, including the availability of housing that meets the perceived needs of university personnel and the presence of business establishments that attract student spending (and the extent of competition from big-box stores in nearby municipalities). Local governments that own utilities, such as waterworks or telecommunications facilities, can gain substantial revenue from the services that they provide to the university.

In many communities with a SSHE university, there is no direct link between service demand, municipal revenue and the assessed value of property owned by the institution. For example, Shippensburg University is located in Shippensburg Township, which provides few services to the campus, but would receive a payment in lieu of taxes based on the value of buildings there. Directly across the street is Shippensburg Borough, containing virtually all of the non-commuter off-campus housing, as well as almost all of the establishments that attract students at night and on weekends. However, the borough's lack of university buildings would preclude any direct compensation based on an assessed value formula.

Similarly, Kutztown University is expanding into Maxatawny Township, but off-campus housing and places of entertainment for the growing student population are largely located in Kutztown Borough. Rumors of plans to construct a Wal-Mart superstore just beyond the

borough line raise the possibility of lower business privilege taxes from downtown stores in the future.

A significant number of East Stroudsburg University students live in off-campus apartments in neighboring Stroudsburg Borough, which has no university buildings within its borders – and, therefore, would receive no direct state allocation based on the assessed value of SSHE property.

Cheney University, situated several miles from any borough of significant size, straddles two townships (in two counties). In this case also, the university's net fiscal impact on municipalities in the vicinity may not be closely related to the assessed value of its property.

Any equitable formula for the distribution of state funds based on a single formula would need to encompass a wide range of regional and local circumstances. Even when a university can be shown to make a net positive contribution to the provision of public services on a regional basis, certain municipalities – particularly boroughs containing (or adjacent to) a campus – may actually suffer adverse fiscal consequences. In fact, the adverse net effect on a particular municipality may increase as a result of university expansion while the region as a whole experiences a net financial gain from the economic stimulus.

Any formula based on the assessed value of currently tax-exempt property would raise difficult questions. What is the practical market value of a stadium or a laboratory? What would the market or sale value be without a university to make use of it? Because tax-exempt properties have never represented a direct revenue source, their assessed value has not been closely examined or regularly updated on expansions. Nor, for that matter, have assessments been challenged by the owners, who have had no reason to be concerned with accurate values because no taxes have ever been due.

Even if assessments were accurate and consistent from one municipality to another, would a building constructed of expensive material (by means of a generous gift from a wealthy alumnus) cause more demand for municipal services than a less costly building used for the same purpose on a different campus in another municipality? Do old dormitories with comparatively low assessed valuation require fewer first-responder services than newly constructed living quarters?

A formula that would allocate compensatory payments to each of the fourteen regions based on the student population of the regional SSHE university would be more closely

connected with actual service costs and with the erosion of revenue that results from the private acquisition of single-family residences for off-campus student housing and the conversion of taxable property to tax-exempt status. State payments to municipalities in each region hosting a SSHE university could be allocated, in the aggregate, by means of a simple calculation: dividing each university's full-time-equivalent enrollment by the total SSHE enrollment. An alternative formula based on the student population in each municipality as a proportion of the total population in that municipality appears to be less equitable. For example, if two municipalities – one with total population twice as great as the other – provide services to universities having identical student enrollments, the larger municipality would receive only half the funds allocated to the smaller municipality.

Although student population and fiscal impact on an entire region are related, these factors are not always closely linked with respect to individual municipalities within a region. As noted earlier, a borough adjacent to a university may house only a small part of the total student population but may contain most of the off-campus residences and almost all of the eating and drinking establishments frequented by students. Only local public officials would be able to negotiate an equitable distribution of funds to municipalities in a specific region. A simple formula based on university enrollment could be used to determine the allocation to each region, but it is difficult to envision a statewide formula that could fairly compensate each specific municipality within each region.

The history of grants to municipalities in other states suggests that a PILOT program would be difficult to implement and maintain. Regardless of the formula for distributing funds, the annual legislative appropriation for these programs has often been less than the statutory requirement, resulting in a prorated remittance to municipalities. At the local level, year-to-year variability in receipts from these programs has caused budgeting problems.

University administrators who have traced the experience of the two states that currently provide a payment in lieu of taxes (PILOT) to local governments for hosting institutions of higher education might have reason to be concerned about this approach. In both Connecticut and Rhode Island, where municipalities receive compensatory payments for private as well as public universities, cities (New Haven and Providence) have pressured local institutions (Yale and Brown) into making additional contributions to preserve their tax-exempt status and promote local harmony. Although major private universities are more vulnerable than state institutions to

coercion by local governments and their constituents, the history of those two PILOT programs indicates that general compensatory formulas will not necessarily meet the expectations – or demands – of local officials.

Even in Wisconsin, where the state and its university system have developed a rather elaborate set of formulas for allocating funds to reimburse municipalities for specific services provided to state-owned institutions of higher education, the compensation program has not eliminated all disagreement about the balance between services and revenues.

- **Negotiated Agreements**

The experience of universities and their host municipalities in states with no reimbursement program suggests that direct negotiations about financial issues can yield somewhat satisfactory results. However, these agreements have often been preceded by considerable acrimony and waste of time – both of which might have been avoided if guidelines for planning, fiscal impact analysis and ongoing communication had been in place.

Universities bring to a community special resources and special challenges. Consequently, they require a special approach to negotiations. In the case of SSHE campuses, the state legislature may be able to facilitate that approach. The SSHE universities and Pennsylvania's municipalities are, after all, creations of the state.

Because each local agreement reflects particular circumstances and ordinarily focuses on a relatively narrow issue, pacts negotiated in other states provide only limited guidance for prescriptive legislative action. In fact, they suggest that the most constructive legislative role would be to encourage university administrators and municipal officials to work together to identify the fiscal impact of future plans and assure that revenue is possible and sufficient to cover the services provided.

- **State Payments versus Negotiated Agreements**

Devising a workable legislative formula to allocate state payments to local municipalities for the net fiscal impact of SSHE universities would have the advantage of addressing this issue on a comprehensive basis. The continued delivery of municipal services that will protect and enhance Pennsylvania's investment in the SSHE system is clearly a matter of importance to those institutions, their host communities and the entire Commonwealth. However, as noted

previously, developing an equitable formula to disburse funds directly from the state to all impacted municipalities would present a formidable challenge.

As a practical matter, ad hoc agreements at the local level might be the best means of achieving an appropriate balance between costs and revenues for specific services in specific regions. However, without a statewide framework for negotiations, this approach would fail to address the fundamental issue: sustaining the fiscal and social health of the municipalities that provide the public services and supportive environment necessary for SSHE universities to compete effectively for superior students, faculty and administrators.

Combining the positive features of these two alternatives – by means of an uncomplicated statewide formula for the distribution of funds to each region, together with a provision requiring a cooperative agreement for the distribution of funds to municipalities within each region – appears to be the most promising approach.

The first step in compensating municipalities for the cost of services and the loss of revenue resulting from the presence of a SSHE university would be legislative authorization of a fund for that purpose, together with a rationale for determining the amount of the annual appropriation. Discussions with municipal officials in boroughs impacted by the presence of an SSHE university suggest that additional requirements for public safety are needed to respond to enforcement issues related to the off-campus behavior of students. However, this expense tends to vary in proportion to the number of students attending each University. Although other expenses – and the loss of revenue from tax-exempt university property as well as the conversion of single-family residences to off-campus student housing – are more difficult to quantify, the appropriation might be increased to include these factors as well.

The next step is determining the formula for allocating funds to each region. *The number of full-time-equivalent students enrolled in each SSHE university appears to be a reasonable measure of the impact on municipal service costs in the region.* Consequently, the allocation to each region would be a proportion of the total appropriation computed by dividing the number of students in the regional SSHE university by total SSHE enrollment for the year. This formula would not attempt to make a direct connection between the financial impact of each university and the amount of money distributed to specific municipalities (such as Shippensburg Borough and Shippensburg Township or Kutztown Borough and Maxatawny Township). Instead, the

funds would be remitted to the primary impacted municipality, which is, in fact, the borough or city that includes or adjoins each university.

The third step would involve negotiation of a cooperative agreement between each primary impacted community and its neighboring municipalities for distribution of regional funds received from the state to compensate for the cost of services and loss of revenue resulting from the presence of the university. A nearby township or borough may have a significant number of student residents, resulting in costs that should be reimbursed as a proportion of the total regional allocation. The opportunity to receive funds from that allocation would be an incentive for all affected municipalities to take part in negotiations. (See Table 6-1.)

Table 6-1  
 Comparison of Possible Fund Distribution to Host Municipalities  
 Based Upon HB 1418 Formula and Simple FTE Formula  
 Distribution Based on HB 1418 \$3,000,000 Funding Request

	Students (FTE)	HB 1418 Original Formula \$	Percentage of SSHE Enrollment (FTE) Factor %	Simple Formula FTE Distribution \$
Bloomsburg Town	8,304	159,000	7.84	235,236
California	6,640	246,000	6.27	188,098
Cheyney	1,545	114,000	1.46	43,767
Clarion	6,421	267,000	6.06	181,895
East Stroudsburg	6,553	156,000	6.19	185,634
Edinboro	7,773	246,000	7.34	220,194
Indiana	13,998	195,000	13.22	396,536
Kutztown	9,585	342,000	9.05	271,525
Lock Haven	5,126	159,000	4.84	145,210
Mansfield	3,556	249,000	3.36	100,735
Millersville	7,998	201,000	7.55	226,568
Shippensburg	7,653	324,000	7.23	216,795
Slippery Rock	7,928	192,000	7.49	224,585
West Chester	12,822	150,000	12.11	363,222
Total	105,902	3,000,000	100.00	3,000,000

Municipalities with significant University presence that would share a negotiated allocation:

Maxatawny Township	Berks County
Shippensburg Township	Cumberland County
Slippery Rock Township	Butler Township
Thornbury Twp.	Chester County

To assure that each primary impacted municipality attempts to negotiate a cooperative agreement in good faith, the state appropriation might require a brief, but specific, annual report of the basis for the regional distribution of funds to be submitted to the Department of Community and Economic Development. In fact, the negotiation process might serve as the basis for more serious exploration of shared services, particularly police and code enforcement activities, through DCED's Shared Municipal Services Program.

As a practical matter, each SSHE university should be invited to participate in regional negotiations. Increased cooperation in the future is likely to result from better understanding by university administrators of the actual and perceived negative influence of off-campus student behavior, event traffic, and conversion of single-family homes to student apartments on municipalities in the region.

In addition, the Pennsylvania legislature might consider the potential benefits from a resolution requiring every university within the SSHE system to include in its long-range plan a detailed analysis of the anticipated fiscal impact on local municipalities from all future actions – including property acquisitions, construction of new facilities, and any increase in enrollment (particularly as it would relate to greater demand for off-campus housing). Legislation authorizing SSHE universities to enter into agreements for payment in lieu of taxes or for impact fees as compensation to municipalities for the services they provide would encourage negotiations and discourage lawsuits, punitive actions and public controversies.

Because Pennsylvania's universities contribute so much to the state's economic competitiveness, the legislature should direct special attention to assuring the fiscal soundness of the municipalities that provide the services they need to grow and prosper.

#### Observations and Conclusions

The Pennsylvania State System of Higher Education (SSHE), which serves as a valuable resource for residents throughout the Commonwealth, has long brought particular economic and social benefits to the regions in which its facilities are located. However, as these institutions have grown from "normal schools" to university status, their beneficial impact has been increasingly dispersed beyond the boundaries of their host municipalities. At the same time, expansion of SSHE facilities has put ever greater fiscal pressure on the municipalities in their respective regions in two important respects: (1) increased demand for services coupled with (2) reduced revenue as a result of private conversion of single-family residences to off-campus

student housing and, in some municipalities, acquisition of taxable property by the local university, which enjoys tax-exempt status.

In concept, SSHE universities are doubly protected against taxation. Institutions of higher education – public and private – are customarily tax-exempt because of the many benefits they provide to the local community and to citizens throughout the Commonwealth. In addition, state property, regardless of use, cannot be taxed by municipalities.

Nevertheless, if the legislature perceives that host municipalities need assistance in providing the level of service required by state-owned universities, it has the power to appropriate funds for payments in lieu of taxes (known by the acronym PILOT in discussions between educators and municipal officials). In fact, since 1929, the Commonwealth has compensated counties, municipalities and school districts for acreage dedicated to state forests, parks and game lands within their boundaries through similar payments (abbreviated to PILT in connection with public lands). Alternatively, the legislature might authorize the State System of Higher Education to include some form of PILOT program in its operating budget or direct each SSHE campus to make its own payment arrangements, based on a state formula.

To avoid the difficulties inherent in designing a single statewide formula for disbursing compensatory funds to all impacted municipalities – and to avoid the uncertainty that would be involved in arriving at an equitable financial arrangement strictly by means of town/gown negotiations – the legislature should consider a two-stage approach. After determining the proper annual appropriation (perhaps in relation to the aggregate cost of additional police coverage related to off-campus student behavior), the legislature might allocate funds to the primary impacted municipality in each region in proportion to the number of full-time-equivalent students in each SSHE university as a percentage of total SSHE enrollment. At the regional level, each primary impacted municipality (the host or adjacent city or borough) would be required to enter into good-faith negotiations with neighboring municipalities to determine the distribution of funds within each region.

In addition, the legislature might consider requiring each SSHE university to include in its long-range plan an analysis of the fiscal impact of future actions on municipalities in its region. Whenever warranted by the facts set forth in that plan, universities might also be directed to negotiate a “hold harmless” impact fee (which would apply to increased university-

related service demand not offset by greater revenue to the municipality) or PILOT (in the case of taxable property converted to tax-exempt status).

At a more comprehensive level, legislation permitting municipalities to reduce reliance on property taxes by increasing earned income taxes or municipal services taxes might enable certain Boroughs to capture a greater proportion of the economic benefits resulting from the presence of a university. Edinboro utilizes 1.5 percent EIT under Home Rule but is considering a reduction in this rate and a shift back to more reliance on property taxes. Of course the EIT is for the most part not paid by students because their domicile is elsewhere.

Compared with host municipalities in many other states, Pennsylvania's municipalities are generally at a disadvantage in their ability to convert regional economic benefits into revenue to support the services required by universities. Our municipalities are relatively small in area, with a limited range of housing choices and little or no vacant land for new development. These conditions tend to restrict the proportion of faculty members and administrators living within their boundaries. Consequently, the municipalities are deprived of revenues from the property taxes and earned income taxes paid by university personnel who choose to reside in neighboring townships. The inability to levy a local sales tax, an option permitted municipalities in most states, limits Pennsylvania's boroughs to a comparatively small amount of revenue (through the business privilege tax or gross receipts tax) from purchases by students, faculty and the university itself.

***At this time, the balance between financial benefits (including both direct revenue and more general economic activity) generated by SSHE universities, versus the growing demand for services as these facilities expand, shows the prospect of becoming increasingly unfavorable for many of the municipalities in host regions. Some may soon experience difficulty in maintaining the level of service that the universities have come to expect. Any significant deterioration of services or evidence of local fiscal distress might well have the effect of making SSHE universities less attractive to prospective students, faculty and administrators. Because the long-term success of the university and the host municipality are so interdependent, it would be prudent to establish a statewide process for examining and addressing this issue in a timely manner.***

A review of efforts in other states to determine what compensation, if any, municipalities should receive for providing university-related services yields the following conclusions:

- Because of the unique characteristics of each region and its municipalities, as well as the specific service needs of each university, an equitable statewide formula to support the provision of appropriate services would be difficult to design. No other state has devised an entirely satisfactory program to resolve this issue.
- Locally negotiated agreements between universities and their host municipalities have shown the greatest likelihood of achieving a reasonable settlement regarding the sources and amount of revenue necessary to fund the scope and quality of services required by a university.
- Many locally negotiated agreements are reached only after a contentious, prolonged and expensive process.
- Amicable agreements between universities and their host municipalities most often result from the initiative of one skilled administrator (from either side) who is determined to reach a mutually acceptable settlement with a minimum of acrimony.
- No negotiated agreement is entirely satisfactory to both sides. In almost every case, municipal officials have expressed at least some unhappiness with a settlement that, in their opinion, represents less than the university's "fair share" of the costs. On the other hand, university administrators continue to regard any impact fee or payment in lieu of taxes resulting from a negotiated settlement as a generous accommodation in view of the institution's tax-exempt status and its contribution to the economic health of the region. Grudging settlements occur because public officials generally prefer to receive some additional revenue instead of nothing, while educators are often willing to pay something to avoid a prolonged dispute, unfavorable publicity and the possibility of some restrictive measures by the municipality.

A combination of a straightforward state funding formula and mandated negotiations at a regional level is likely to yield the most satisfactory results. At the same time, analysis of these observations suggests that an outside facilitator – one capable of encouraging ongoing communication, conducting factual research, providing procedural guidance and offering problem-solving skills to support the process – might well help SSHE universities and their host municipalities collaborate more effectively. Regular, constructive, forward-looking dialogue between public officials and university administrators would enable them to avoid unnecessary

confrontations, allowing Pennsylvania's financial and human resources to be directed toward the achievement of mutually beneficial goals.

Both sides of the "town and gown" relationship should continuously share their plans and expectations. Municipal officials need to know how projected enrollments, new construction (particularly with respect to on-campus residences to accommodate increases in the student body), and any planned acquisitions of currently taxable property are likely to impact public services. Both parties should be involved in determining the source of revenues needed to support additional services or compensate for any loss of revenue from properties converted to tax-exempt status. University administrators should be given early notice of any municipal plans to alter services, increase utility fees, make zoning changes, redirect traffic flow or take other actions likely to affect the institution's budget, daily operations, student life or future expansion. Whether this level of communication can be fostered by a designated facilitator – and whether legislative action would stimulate this process – are important questions that deserve further consideration.

## Attachment A

### “Hold Harmless” Provision versus Legislated Compensation

#### Comparison of two approaches:

**“Hold harmless” legislation encouraging or requiring SSHE universities to compensate municipalities for any adverse fiscal impact of future expansion or new service requirements**  
*versus*

**Legislative funding of compensation to municipalities for the presence of SSHE universities**

**ALTERNATIVE 1: “Hold harmless” legislation** would require universities to estimate the fiscal impact of future actions – such as purchase of currently taxable property, construction of a new facility, or expansion of enrollment without providing additional dormitory space – and then negotiate a special financial arrangement (payment in lieu of taxes or impact fee) with the municipality for any anticipated loss of revenue or increase in service demands.

#### ADVANTAGES:

- No direct funding by legislature
- No complex allocation formula
- Local responsibility for agreement; involvement of municipality and university in joint planning effort
- Future-oriented; no retroactive effect
- Full recognition of specific costs (which can be built into each university’s operating budget in advance) for all new projects
- Certainty of revenue, which would not be dependent on annual legislative appropriation to municipalities
- Encouragement of regional planning

#### DISADVANTAGES:

- No compensation for any current imbalance between university-related services and revenue
- Potential for recurring disputes as universities continue to grow

**ALTERNATIVE 2: A compensation formula** would be designed by the legislature – for the purpose of offsetting at least some portion of any negative net fiscal impact of SSHE universities on their respective host municipalities – as the basis for allocating funds, which would be appropriated annually.

**ADVANTAGES:**

- Appropriation from general fund; university operations not directly affected
- Tendency to reduce current differences in net fiscal impact of universities on certain municipalities (assuming satisfactory allocation formula)
- Possibility of avoiding local disputes through reliance on system-wide formula

**DISADVANTAGES:**

- Complexity of formula required to compute equitable allocation (See Attachment A1.)
- Potential disagreement over amount of total appropriation for SSHE facilities and its relation to actual fiscal impact of universities collectively and individually
- Annual budgetary uncertainty by municipalities regarding level of funding likely to be approved by legislature and possible changes in allocation formula
- Lack of encouragement of cooperative planning process between university and municipality

*A review of the advantages and disadvantages of these alternatives suggests a third approach:*

**ALTERNATIVE 3: A straightforward compensation formula** that distributes funds to the primary impacted municipality in each region based on the student population of the regional SSHE university **combined with a requirement for local cooperative agreements** as the basis for distributing funds among municipalities at the regional level.

**ADVANTAGES:**

- Appropriation from general fund; university operations not directly affected
- No complex allocation formula
- Funds allocated to host regions in general proportion to municipal costs attributable to students
- Future-oriented based on changing student population; no retroactive effect due to assessed value of capital investment by university
- Encouragement of regional planning, intergovernmental cooperation and shared services
- Potential involvement of universities in cooperative planning process

**DISADVANTAGES:**

- Annual budgetary uncertainty by municipalities regarding appropriation by legislature
- Possibility of disputes between municipalities over distribution of funds at regional level

## Attachment A1

### Issues in designing an equitable formula to distribute state funds to all impacted municipalities for the services costs and revenue losses related to hosting a university

- **LIKELY COMPONENT:** *Assessed value of tax-exempt property as proportion of total assessed value of property within each municipality*

ISSUE: Certain municipalities provide services (such as additional police protection) attributable to a university located entirely or partially in a neighboring municipality.

ISSUE: Accurate valuation of tax-exempt property would be expensive and controversial.

- Special-purpose use of university facilities makes valuation difficult.
  - Few, if any, comparable sales
  - No income data to serve as basis for valuation
  - Limited options for sale of buildings to a similar institution or conversion to alternative use
- Accuracy of valuation of tax-exempt property has been relatively unimportant to municipalities and state universities until now, but careful examination and challenges would be likely as assessed value becomes a component of the compensation formula.

ISSUE: Assessed value of university property may have little relation to the cost of services provided by a municipality or benefits received by a university.

- Special-purpose use of university facilities impacts costs in unusual ways.
  - Identifiable municipal operating costs (such as traffic control) can be traced to certain university facilities (such as a performance center or athletic facility).
  - Specific capital costs (such as a snorkel truck or hazardous materials equipment) may be required only for certain university facilities (such as a high-rise dormitory or a laboratory).

- Construction of an expensive library building endowed by a generous alumnus may cause the host municipality to incur no additional service cost, but would boost the assessed value of university property.
- POSSIBLE COMPONENT: *Student population as proportion of total population of each municipality*

ISSUE: Certain municipalities provide services (such as additional police protection) attributable to visits by students living in dormitories located in a neighboring municipality, which would receive all of the benefit from this factor in the formula.

ISSUE: Determining the number of off-campus students living in each municipality may be difficult (even in a census year).

- Students tend to move frequently.
- Universities may have inadequate information about actual residence of off-campus students.

ISSUE: Students living off campus may exert a significantly different financial and social impact on a particular municipality than do students residing in dormitories – perhaps requiring a weighting factor in the student population formula.

- Noise, parking and property maintenance issues generally increase with the presence of off-campus students.
- Conversion of single-family residences to student rental housing ordinarily reduces earned income tax revenue.

- POSSIBLE COMPONENT: *Current scope of services provided by each municipality*

ISSUE: Which, if any, services provided by a municipality should be considered in the formula?

ISSUE: How would special university-related service demands be quantified?

- POSSIBLE COMPONENT: *Financial capacity of each municipality*

ISSUE: Should a municipality's tax base and current revenue effort be considered in the formula?

## Attachment B

### Methodology

Preparation of this section of the study was based on the following methodology:

- Review of recent (1995-2006) articles in journals of higher education, public administration and economic development, as well as newspaper articles relating to payments in lieu of taxes, impact fees and other financial arrangements between universities and their host communities.
- Telephone discussions with university administrators and public officials – including legislators, municipal managers, finance directors and assessors – in communities named in the reviewed articles, as well as with administrators and officials in other communities suggested during the first round of interviews. This aspect of the study (involving conversations laced with innuendo, wry comments, suppositions and observations offered only on condition of anonymity) was more akin to investigative journalism than ordinary research – suggesting the complexity and subtlety of local relations between “town” and “gown.”
- Telephone contacts with professional organizations representing municipalities and institutions of higher education to obtain an overview of current fiscal issues.
- Examination of relevant state statutes, current legislation, university regulations, municipal budgets, economic studies, and public policy papers.
- Analysis of the information gathered from other states to determine how it applies to the characteristics of municipalities hosting SSHE universities.

CHAPTER 8  
INVOLVING SSHE UNIVERSITIES IN THE  
INTERGOVERNMENTAL COOPERATION PROCESS

Intergovernmental cooperation, specifically encouraged by important changes in the Pennsylvania Municipalities Planning Code adopted by the Legislature six years ago, is particularly applicable to regions hosting universities of the Pennsylvania State System of Higher Education (SSHE). The students, faculty and support staff, together with extensive facilities that provide the public with sports, entertainment and cultural events, exert a positive economic and social influence on the regions in which SSHE universities are located. However, this largely favorable impact is distributed unevenly within each region. In fact, certain municipalities—particularly boroughs and small cities having a SSHE campus within or contiguous to their borders—appear to be experiencing financial challenges as a result of university growth.

The Need for Intergovernmental Cooperation with University Participation

No single statewide formula can be devised to assure equitable distribution (or redistribution) of financial resources among the affected municipalities within each of the fourteen regions hosting SSHE universities. [In this context, the term "region" is used in an imprecise manner. Each community has a good working concept of the "region" that is significantly impacted by the local SSHE University. The definition will vary, particularly between a "region" where the university is located in a suburb of a metropolitan area and a "region" in which the university and its host municipality are at the center of a largely rural area.]

Any legislative effort to require a broad compensatory payment from universities to particular municipalities that might be able to show a net adverse financial impact from the presence of students is likely to be opposed by means of evidence of the university's major positive economic impact on its host region as a whole.

Although changes in the Pennsylvania Municipalities Planning Code adopted in the year 2000 (by means of Act 67 and Act 68) were not focused on regions with SSHE universities, there can be little doubt that the new emphasis on cooperation in land use planning and zoning is especially relevant to those areas. Few large regional employers other than universities bring social and fiscal challenges equal to the seasonal presence of thousands of young people, many maintaining unsupervised off-campus households. At the same time, few regional employers

other than universities bring to a community such an expanse of knowledge and offer such a wide range of job opportunities. However, students ordinarily gravitate to off-campus housing and nighttime attractions in the central city or borough, which is responsible for the cost of providing for their public safety and that of full-time residents, while faculty and support staff frequently reside (and pay the bulk of their taxes) in nearby townships.

Because each university plays such an important role in the community, it should be included as a prominent partner in the process of intergovernmental cooperation. University administrators should welcome the opportunity to be an influential participant in that process. After all, the economic and social strength of municipalities in the immediate vicinity of the campus will ultimately affect the future competitiveness of each university.

#### Intergovernmental Cooperation Provisions in the Municipalities Planning Code

Several explicit purposes of Article XI, *Intergovernmental Cooperative Planning and Implementation Agreements*, added to the Municipalities Planning Code in the year 2000, relate directly to regions hosting SSHE universities:

- To protect and maintain the separate identity of Pennsylvania's communities and to prevent the conversion of valuable and limited agricultural land.
- To encourage cooperation and coordinated planning among adjoining municipalities so that each municipality accommodates its share of the multimunicipal growth burden and does not induce unnecessary or premature development of rural lands.
- To minimize disruption of the economy and environment of existing communities.
- To provide for the continuation of historic community patterns.

The last two points are particularly applicable to municipalities that are negatively impacted by certain aspects of university growth. These municipalities now contend with a steady increase in off-campus student housing, which is replacing single-family households that previously contributed substantial earned income taxes to the public treasury. University acquisitions of taxable properties, converting them to tax-exempt status, and a rising number of students attracted to places of entertainment (with the accompanying public safety issues) are

also matters of current concern. The recent changes in the Municipalities Planning Code place greater emphasis on the fact that specific municipal conditions arise in a regional context and should be addressed accordingly.

Intergovernmental cooperation in Pennsylvania was first authorized by Act 180 of 1972 (subsequently amended by Act 177 of 1996), now codified in Title 53, Sections 2301 through 2315, of the Pennsylvania Consolidated Statutes. The purpose of Article XI of the Pennsylvania Municipalities Planning Code is to encourage and regulate intergovernmental cooperation planning and implementation agreements under the authority of Title 53, Section 2303(a), containing the "general rule" that "two or more local governments in the Commonwealth may jointly cooperate ... in the exercise or performance of their respective governmental functions, powers or responsibilities." As set forth in Section 2307 of Title 53, the enabling ordinance adopted by a municipality entering into any form of intergovernmental cooperation agreement must specify "the conditions of agreement in the case of cooperation with or delegation to other local governments, the Commonwealth, other states or the Federal Government," including duration, purpose and objectives, financing, organizational structure, property arrangements, and administrative powers. In broad terms, this section suggests the opportunity for SSHE universities, as components of a State agency, to enter into a cooperative agreement with one or more municipalities.

To promote joint planning and sharing of municipal services, the Governor's Center for Local Government Services within the Department of Community and Economic Development publishes the *Intergovernmental Cooperation Handbook*, now in its sixth edition (February 2006). As emphasized in the introduction to this practical guide to negotiation and implementation of workable agreements:

Frequently, a citizen resides in one municipality, is employed in a second and shops in a third. ...

The economic system which serves the citizen is based on a market area, not on municipal boundaries. The market area is defined by economic rather than political criteria. ... As a result, the economic life of a resident is lived as part of the economic or market area, not just the municipal jurisdiction where he or she happens to live. ...

The decision of a municipal government affecting the economic system affect not only its residents but also the residents of other jurisdictions. The residents of a municipality are affected by economic decisions in other jurisdictions as well as their own. This economic interdependence points to the need for intergovernmental cooperation.

In many respects, the importance of intergovernmental cooperation is increased by the presence of a SSHE university. As a practical matter, each of these government entities have as much influence on the economic and social characteristics of their region as the local municipalities themselves. Obviously, then, the universities should be active partners in the intergovernmental cooperation process.

The Governor's Center for Local Government Services encourages both formal and informal communication and cooperation between municipalities (and, presumably, between municipalities and State agencies, where appropriate). However, the *Intergovernmental Cooperation Handbook* urges that each specific agreement should ultimately be reduced to writing in conformity with the Act 177 provisions codified in Section 2307 of Title 53, as described briefly in an earlier paragraph.

Title 4, Section 7.771, of the Pennsylvania Consolidated Statutes declares: "Sustaining the economic and social vitality of Pennsylvania's communities must be a priority of State government." The mechanisms for moving toward that goal are largely untested with respect to cooperation between individual municipalities and SSHE universities – or the development of multimunicipal agreements that include the local university as a planning and implementation partner. It is unclear whether, under present law, a university (or the SSHE Board of Governors) can enter into a cooperative agreement that would have the effect of offsetting a municipality's loss of revenue when a property is acquired by the university and becomes tax-exempt. New legislation may be required to permit the compensation of municipalities for the gradual erosion of revenue that accompanies such acquisitions.

Section 1102 of the Municipalities Planning Code refers to "the opportunity for the active participation of State agencies in the intergovernmental planning and implementation process." Although this wording may have been primarily intended to apply to agencies providing funds or

guidance to implement such agreements, the door is certainly open to the involvement of SSHE universities in the intergovernmental planning process.

#### Potential involvement of Universities in the Intergovernmental Planning Process

The SSHE Board of Governors recognizes that "State System of Higher Education universities are partners in societal development with the host communities in which they are located." In Policy 1997-02: *Community Relations*, adopted January 16, 1997, the Board took particular note of the universities' "significant economic impact, as well as direct fiscal, human and in-kind contributions to their broad geographical regions," but acknowledged that "these resources are not necessarily received by the host communities that bear the cost of infrastructure and operational support." Based on the belief that "the relationship between state universities and host communities should be characterized by collaboration and cooperation that will enhance the achievement of mutually beneficial goals," this policy statement sets forth eight types of actions university administrators should take to "work effectively with host governments":

- Continue to promote the host community(ies) economic and community development through cooperative planning and consultant support, where possible;
- Minimize, to the extent practicable, the burden of municipal services provided to the university;
- Consult with the host community representative(s) at the appropriate levels of university planning, particularly in areas that may result in infrastructure impact with infrastructure defined as, but not limited to, utilities such as water, sewer, telephone, power, storm sewers, streets, conference centers, libraries, etc.;
- Communicate with host community officials regarding university decision-making, council of trustees' agenda, public events, student programs, etc.;
- Continue and expand the very significant student community service projects;
- Provide expertise in developing local capacity in such areas as obtaining infrastructure grants from federal and state sources, etc.;

- Review and, where necessary, develop student life and off-campus housing policies that reflect the mutual interest of the host communities and the university; and
- Review and, where appropriate, change, modify, and/or develop new policies regarding off-campus student issues.

The SSHE *Real Estate (Facilities) Manual* makes a related point:

*Sensitivity.* System universities play a significant role in determining the social and economic stature of the communities in which they are located. Acquisition of private property by the university may reduce the community's property tax base. Purchases of numerous properties by the university could substantially affect the value of real estate, and the market could be influenced artificially by speculation or indiscriminate release of university acquisition plans. In planning real property acquisitions, the university must carefully evaluate its planning, and minimize or eliminate any adverse reactions as quickly as possible. An assessment of the anticipated reactions that are expected to result from any planned real property acquisition should be conducted before undertaken. The assessment should be shared with the Office of the Chancellor as early as possible during the acquisition process.

This statement does not take into account the long-term effect of increasing enrollment faster than the construction of on-campus housing for additional students. As off-campus students become ever more mobile and grow in number, municipalities other than the host municipality have reason to be concerned about future private conversion of single-family residences to rental housing for students. As a partner in the regional planning process, the university can help to devise a cooperative agreement to mitigate the negative fiscal effects resulting from the reduction or elimination of earned income tax revenue (previously paid by the owner-occupants). The university can also contribute important ideas for addressing the public safety issues attributable to the growing number of students living off-campus in unsupervised private facilities.

### The SSHE Universities and Municipal Cooperation/Shared Services

As discussed above, the SSHE universities do not view themselves as municipalities as contemplated by the spirit of the Commonwealth's intergovernmental cooperation legislation. The SSHE institutions, by policy and by action, see themselves as instrumentalities or agencies of the Commonwealth. From their perspective, the universities do not perceive an active, participatory role in the ongoing activities of their host municipality and the surrounding municipalities and county as part of their mission.

The focus of the changes in the Commonwealth's municipal planning legislation that encouraged the SSHE institutions to cooperate with their host municipalities was designed to encourage participation with these communities. Based upon interviews with municipal officials, the SSHE institutions have treated their host municipalities and other municipal entities as minor partners in the institutions' overall planning process. By policy, perception, and historical practice, the SSHE institutions are operating separately from their municipal hosts. With this prevailing practice in mind, the participation of these institutions in shared services activities that entail significant municipal cooperation presents obstacles to challenge and change effectively.

Municipal shared services are a difficult challenge in their own right. The history and tradition of the Commonwealth pattern of local government has been resistant to municipal cooperation. Getting municipalities to participate in shared services programs is also a difficult challenge. Getting the SSHE universities and their host municipalities to participate in shared services presents a very interesting challenge.

Local governments in the Commonwealth, particularly in municipalities that host SSHE institutions, often do not possess the range of resources necessary to provide the level of services commensurate with the demands of a large university community. As detailed in this study, the host municipalities are often challenged to provide municipal services to a community that expects and requires a level of municipal involvement in the social and cultural environment of a university community. The impact of an SSHE institution on local government is extensive. The participation and contribution of university resources to the community is not often provided as reimbursement or contribution for municipal services. SSHE university participation in municipal cooperation efforts and shared services programs would increase the participation and the use of significant resources at these institutions in municipal service provision.

The SSHE universities, through their faculties and their professional staffs, possess expertise and resources in a range of disciplines that could be immensely valuable to their host municipalities. For example, most SSHE universities have criminal justice departments that can serve as resources, training facilities, and reservoirs of trained personnel for municipal public safety activities. Similar resources exist in such areas as planning, recreation, housing, and telecommunications. The faculty and staff of these academic departments can provide assistance and leadership in cooperative efforts to improve the delivery of municipal services to their host communities.

The use of a structured Municipal Cooperation Commission, established by a host County, can provide the institutional vehicle to accomplish the active participation of SSHE universities in a municipal shared services environment. The SSHE universities possess the skills and resources across an array of disciplines that can serve to improve the delivery of local government services. The faculty and professional staff of these SSHE institutions, serving as staff to a Municipal Cooperation Commission, can provide the professional expertise lacking at the local government level to achieve the delivery of shared intergovernmental municipal services.

The Commonwealth's Department of Community and Economic Development (DCED) has actively encouraged the establishment of shared services programs and has provided funding to foster increased development of this activity. Shared services grants from DCED can be utilized by the SSHE institutions and their host municipalities for financial support. These DCED funds can be available to support such activities as regional police and regional fire study commissions and the development of area-wide rental housing codes and code enforcement procedures; two areas of vital concern and importance to SSHE institutions and their host municipalities. The various academic departments of SSHE institutions could contract with a host municipality and other local municipalities to do feasibility studies and to implement various shared municipal services. The resources and expertise available in these academic departments can be used to increase the level of municipal services and the shared delivery of these services among the participants in the overall SSHE university communities.

### Town and Gown Cooperation

Within the Commonwealth there are examples of university/community partnerships that demonstrate the opportunities for colleges and universities and their host municipalities to work together. A prime example of this cooperative effort is the Joint Urban Studies Center (JUSC). The Joint Urban Study Center was established by Wilkes University, King's College, College Misericordia, Luzerne County Community College, Penn State Wilkes-Barre, and the University of Scranton to provide research and analysis to small and midsize cities and mobilize their resources of these regional institutions of higher education to help their communities.

In 2005, the JUSC published a report on university/community partnerships. This report discussed the background of these partnerships between colleges and universities and their surrounding communities. These partnerships are efforts to bring to bear the assets of the university community and the municipal community in a common partnership to benefit both environments. Both parties must recognize that each brings different perspectives to this relationship, and that the colleges and universities can bring a wealth of experience, knowledge, and resources to this relationship with the most communities.

As part of its report on university/community partnerships, the JUSC described the impact on West Philadelphia by the University of Pennsylvania. The University of Pennsylvania recognized that the blighted conditions of its surrounding community jeopardized the vitality and the safety of the university community. In 1992, the University founded the Center for Community Partnerships as the vehicle to help rebuild and revitalize the West Philadelphia community. Since 1992, the University and the Center have established programs to create clean and safe streets, to increase the housing and home ownership, to promote commercial and economic development, and to strengthen public education in the community. Using community based partnerships; the university has been able to revitalize the West Philadelphia community.

A key element in this redevelopment effort was a University incentive to encourage homeownership in the West Philadelphia community. The University established programs to assist homebuyers, especially University faculty and staff, to purchase and rehabilitate housing in the community. The University provided financial assistance in the form of down payments and subsidized mortgage loans. The University also encouraged and provided financial assistance for the reconversion of multifamily dwellings back to single family housing.

This partnership also helped revitalize commercial development in the West Philadelphia community. New retail space and new restaurants have been added to the business environment, and University faculty and staff participate in a variety of programs in West Philadelphia public schools.

In Lancaster, a similar effort by Franklin and Marshall College, through the James Street Improvement District (JSID), provides another example of a successful partnership relationship between a college and the host municipality. The College's active involvement in the JSID has resulted in increased housing and economic activity in the community. Like the University of Pennsylvania, Franklin and Marshall College recognized that the social and economic vitality of the host community was crucial to the vitality of the college environment.

In Berks County, Albright College serves as the managing partner for the Center for Community Leadership. The Center focuses on developing intermunicipal cooperation and providing resources and assistance to local communities. The Center conducts classes, provides research, participates in certification programs, and makes available the resources of the college and university community to the host municipalities.

In Wilkes-Barre, Pennsylvania, Wilkes University and King's College participate in an employer-assisted housing program that was structured by the JUSC, the City of Wilkes-Barre, and the Federal National Mortgage Association (Fannie Mae). The two schools have joined in a homeowner incentive program with Blue Cross of Northeastern Pennsylvania, Citizens Bank, Wyoming Valley Health Care System, and Geisinger Health System. This incentive program offers down payment assistance and forgivable loans to employees of these institutions to purchase homes in the City.

The University of Scranton, also a member of the JUSC, participates with other Scranton employers to offer homeowners similar incentives in the Hill Section of the City. Like the Wilkes-Barre program, this homeowner initiative is a key to increasing single-family home ownership, replacing rental housing and countering the trend of conversion of single family homes into rental properties.

In the City of Williamsport, Penn College of Technology contributes \$100,000 per year to the City of Williamsport to help the City in the provision of public safety services and to assist with the City's debt service payments.

The Joint Urban Studies Center has also worked with the Luzerne County Municipal Cooperation Commission (MCC) to increase the use of shared services in its host communities. The JUSC and the MCC have collaborated in sponsoring two municipal summits devoted to shared services, and the JUSC has helped the MCC in the preparation of regional shared services feasibility studies. The JUSC has also participated as a major research entity in the preparation of the long range comprehensive plan for the South Valley regional partnership. The Partnership is a collaborative effort by several Luzerne County municipalities, home to Luzerne County Community College, to develop a strategy for revitalization in the South Valley portion of the County.

These examples of town and gown cooperative partnerships demonstrate that colleges and universities and their host municipalities can join resources for the betterment of both environments. The colleges and universities have recognized, in the above examples, that the economic, social, and public safety vitality of their host communities are crucial to the success of these academic institutions. Academic reputation and perception were clearly motivating factors in many of the collaborative efforts of these university/community partnerships as well as competition for students. The colleges and universities recognized that their competitive ability would be affected by the social and economic status, or stigma, of their host municipalities. Using the colleges and universities resources to improve the economic and social condition of the host municipalities clearly was in the best interests of both parties.

The common characteristic of these university/community partnerships in the Commonwealth is that the private colleges and universities have taken the lead in these efforts. Perhaps because private colleges and universities are more sensitive to the competitive elements present in the marketplace, they are better attuned to the economic impact of a blighted or deteriorated host community on their image and marketability. These colleges and universities have recognized that a deterioration in the host municipality is an economic and competitive threat to the academic vitality and prestige of the educational community. The motivating factor of self interest played a significant role in these institutions using their resources to improve the environment of their host communities.

### Observations and Recommendations

Municipalities within a region hosting a university in the Pennsylvania State System of Higher Education should promptly explore opportunities for initiating or increasing intergovernmental cooperation – and make a special effort to include key university decision-makers in all stages of the process. Involving administrators, faculty members and support staff as community residents and municipal constituents may well be as important as inviting them to participate more formally in their daytime roles as university employees.

A Municipal Cooperation Commission established through the host County of the SSHE universities can serve as the vehicle to encourage and program shared services activities between the universities and their communities. The SSHE universities have the resources, the professional expertise, and the academic staff to provide a Municipal Cooperation Commission with the capability to promote and institute cooperative, shared services programs in their municipalities. Through a Municipal Cooperation Commission, the SSHE facilities and professional staff can marshal the resources of the universities to assist local governments in the delivery of shared services throughout the host communities.

Universities in the Pennsylvania State System of Higher Education would surely benefit from more active participation in regional planning, which would aid in the achievement of their long-term goals, as well as contribute to more timely resolution of problems as they arise. The regional impact of SSHE universities and the talents of the staff they employ provide a literally unique opportunity to achieve a particularly productive form of intergovernmental cooperation in regions throughout the Commonwealth.

A relevant issue for regional planning participation by SSHE universities is public health and safety. SSHE universities contain sizeable transient and highly mobile populations that are of particular concern to public health officials, especially in the unlikely event of a medical pandemic. Private colleges and universities have already started cooperating with Homeland Security Department officials, state, and local officials in preparedness planning in these critical public safety and health areas. SSHE institutions should initiate such preparedness planning in cooperation with their host municipalities and Homeland Security officials.

Clearly, the Pennsylvania Legislature and the Governor's Office support intergovernmental cooperation. Equally clearly, regions hosting SSHE universities have particular need for such cooperation. All parties – boroughs, townships and universities – would

benefit from regular communication, collaborative planning and, where applicable, formal agreements to address specific issues of mutual interest.