

**Tax Abatements, Financial
Agreements and “PILOTs”
(Payments in Lieu of Taxes)
Long Term Tax Exemption
Law, N.J.S.A. 40A:20-1 et seq.**

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Payments in Lieu of Taxes (PILOTs): Constitutional Background

- **Article VIII, Section 3, Paragraph 1** of the **New Jersey Constitution** provides the legal basis for exemption from taxation, in whole or in part, for a limited period of time during which profits of and dividends payable by any private corporation enjoying such tax exemption shall be limited by law.
- This exemption may be granted for **improvements** constructed within **blighted areas** (*i.e.*, designated areas in need of redevelopment).

Payments in Lieu of Taxes (PILOTs): Statutory Provisions

- New Jersey Legislature has implemented this constitutional provision through the adoption of the *Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq.*
- Improvements receive a zero assessment (complete exemption) for the term of a **Financial Agreement** entered into between the municipality and the owner. *N.J.S.A. 40A:20-4.*
- Owner pays an “**Annual Service Charge**” (a/k/a PILOT), instead of property taxes on the improvements. Under the statute, owner receives a **credit** equal to the land tax paid in previous year towards ASC due in current year. *N.J.S.A. 40A:20-12.*

Payments in Lieu of Taxes (PILOTs): Financial Agreement

- Application, *N.J.S.A. 40A: 20-8*
 - Includes proposed form of Financial Agreement
 - Application referred to governing body by “CEO” of municipality (*i.e.*, Mayor)
- Form of Agreement, *N.J.S.A. 40A: 20-9-12*
 - Financial Agreement approved by Ordinance

Payments in Lieu of Taxes (PILOTs): ASC

- Two methods of calculating PILOT, *N.J.S.A. 40A: 20-12 (b)*
 - Percentage of “annual gross revenue”:
 - not less than 10%, with no maximum except not more than 15% for low and moderate income housing project.
 - At municipality’s option, percentage of “total project cost”:
 - not less than 2%, with no minimum except not more than 2% for low and moderate income housing projects.
- PILOT paid quarterly, consistent with tax collection schedule.

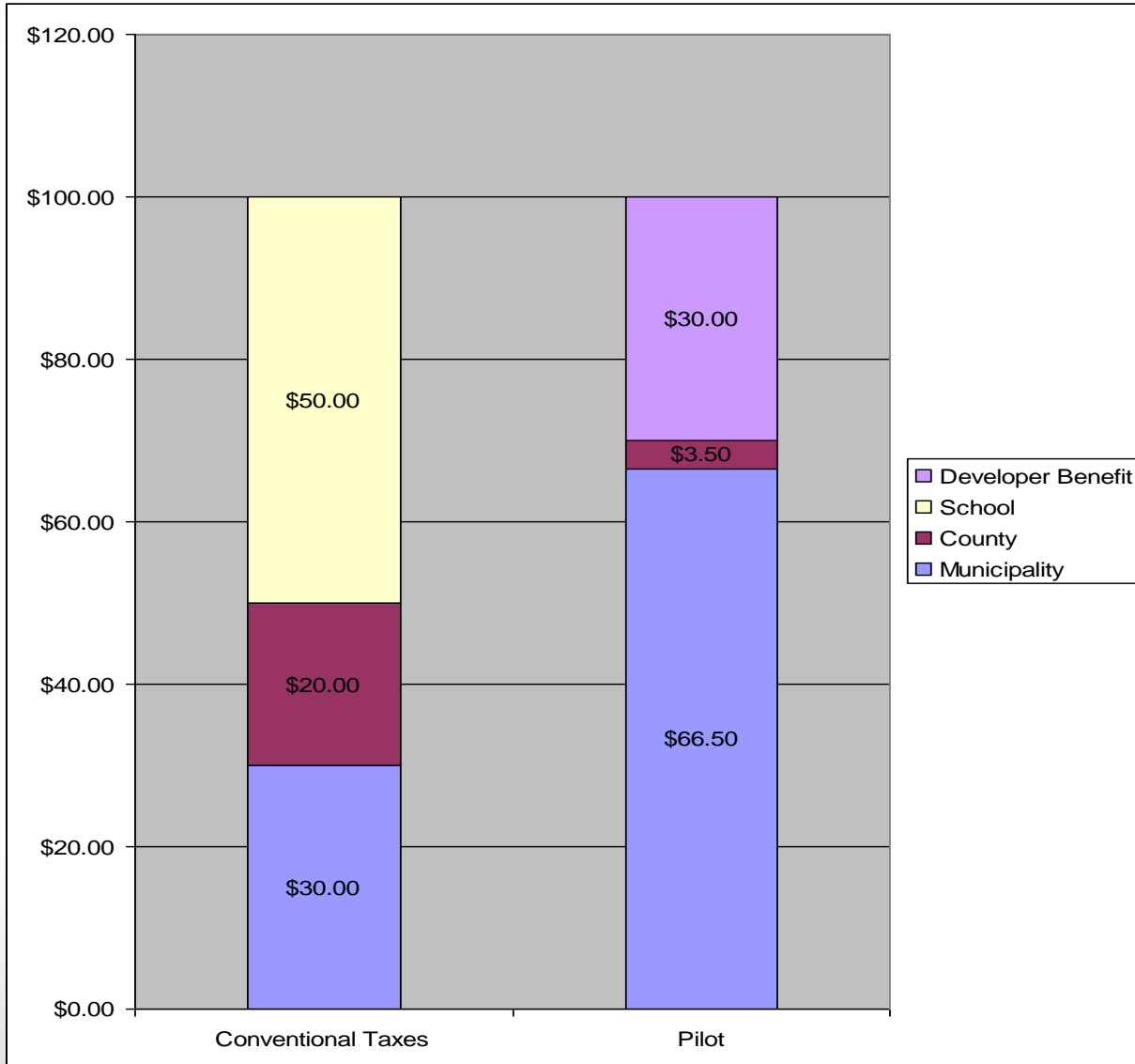
Payments in Lieu of Taxes (PILOTs): Additional Matters

- Owner must be an “**urban renewal entity**” (URE) registered with the Department of Community Affairs.
- The law provides certain annual reporting requirements and limitations on profits for UREs.
 (“allowable profit rate” means the greater of 12% *or* the percentage per annum = interest rate on initial permanent mortgage financing + 1¼%) *N.J.S.A. 40A: 20-3(b)*.
- Administrative Fee = 2% of PILOT. *N.J.S.A. 40A:20-9*

Are PILOTs Good for the Municipality?

- Financial Agreements and PILOTs are a legitimate public policy tool. If properly used, these tools can yield beneficial results.
- PILOTs can yield higher revenues for a municipality than can be realized by conventional taxes.
- PILOTs incentivize a developer to build a project that otherwise would not be built.

An Example



- Municipality receives 220% more in revenues under PILOT than under Conventional Taxes.
- Developer pays 30% less than would be due under Conventional Taxes.

Other PILOT Terms

- PILOT may not be less than prior year's real estate taxes.
- The law requires certain mandated step-ups in minimum PILOT (equal to 20%, 40%, 60%, 80% of otherwise applicable taxes over life of Financial Agreement).