

# Property Tax Exemption Study Committee

Background material

August 28, 2013

# Statutory Charge

FROM Sec. 42 of Act 73 of 2013:

## Sec. 42. STUDY COMMITTEE ON CERTAIN PROPERTY TAX EXEMPTIONS

- (a) Creation of committee. There is created a Property Tax Exemption Study Committee to study issues related to properties that fall within the public, pious, and charitable property tax exemption in 32 V.S.A. § 3802(4). The Committee shall study and make recommendations related to the definition, listing, valuation, and tax treatment of properties within this exemption.
- (b) Membership. The Property Tax Exemption Study Committee shall be composed of seven members. Four members of the Committee shall be members of the General Assembly. The Committee on Committees of the Senate shall appoint two members of the Senate, not from the same political party, and the Speaker of the House shall appoint two members of the House, not from the same political party. The Chair and Vice Chair of the Committee shall be legislative members selected by all members of the Committee. Three members of the Committee shall be as follows:
  - (1) the Director of the Division of Property Valuation and Review;
  - (2) one member from Vermont’s League of Cities and Towns, chosen by its board of directors; and
  - (3) one member of the Vermont Assessors and Listers Association, chosen by its board of directors.
- (c) Powers and duties.
  - (1) The Committee shall study the definition, listing practices, valuation, and tax treatment of properties within the public, pious, and charitable exemption, including the following:
    - (A) ways to clarify the definitions of properties that fall within this exemption, including recreational facilities, educational facilities, and publically owned land and facilities;
    - (B) guidelines to ensure a uniform listing practice of public, pious, and charitable properties in different municipalities;
    - (C) methods of providing a valuation for properties within this exemption; and
    - (D) whether the policy justification for these exemptions continues to be warranted and whether a different system of taxation or exemption of these properties may be more appropriate.
  - (2) For purposes of its study of these issues, the Committee shall have the assistance of the Joint Fiscal Office, the Office of Legislative Council, and the Department of Taxes.
- (d) Report. By January 15, 2014, the Committee shall report to the Senate Committee on Finance and the House Committee on Ways and Means its findings and any recommendations for legislative action.
- (e) Number of meetings; term of Committee. The Committee may meet no more than six times, and shall cease to exist on January 16, 2014.
- (f) Reimbursement. For attendance at meetings during adjournment of the general assembly, legislative members of the committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

# Mechanics of exemptions

- Exemptions typically decided at lister level in each town
- Can be appealed through town assessment process
- VT Courts decide final appeal
- PVR has no role in exemption decisions
  - VT Supreme Court decided in Woodstock v. Barnard held that PVR lacks jurisdiction to determine exempt status

# The language of the public, pious and charitable exemption

- Appears in 32 VSA 3802 which is a list of properties exempt from both municipal and statewide education taxes
- Under 32 VSA 4152, towns must identify statutory basis of exemption
- Several types of properties all under 3802(4)

# Public Pious and Charitable Exemption

- 32 VSA 3802(4) exempts from municipal and education property taxes:
  - (4) Real and personal estate granted, sequestered or used for public, pious or charitable uses; real property owned by churches or church societies or conferences and used as parsonages and personal property therein used by ministers engaged in full time work in the care of the churches of their fellowship within the state; real and personal estate set apart for library uses and used by the public and private circulating libraries, open to the public and not used for profit; lands leased by towns or town school districts for educational purposes; and lands owned or leased by colleges, academies or other public schools or leased by towns for the support of the gospel; and lands and buildings owned and used by towns for the support of the poor therein; but private buildings on such lands shall be set in the list to the owners thereof, and shall not be exempt. The exemption of lands owned or leased by colleges, academies or other public schools, shall not apply to lands or buildings rented for general commercial purposes, nor to farming or timber lands owned or leased thereby; but this provision shall not affect the exemption of so-called school or college lands, sequestered to such use prior to January 28, 1911.

# 3802(4) broken down

- **Public, Pious, Charitable.** Real and personal estate granted, sequestered or used for public, pious or charitable uses
- **Churches.** Real property owned by churches or church societies or conferences and used as parsonages and personal property therein used by ministers engaged in full-time work in the care of the churches of their fellowship within the State
- **Libraries.** Real and personal estates set apart for library uses and used by the public and private circulating libraries open to the public and not used for profit
- **Town lands.** Lands leased by towns or town school districts for educational purposes
- **Colleges, academies, or other public schools.** Lands owned or leased by colleges, academies, or other public schools or leased by towns for the support of the gospel (but lands or buildings rented for general commercial purposes and farming and timber land owned or leased by these entities are not exempt)
- **Support for the poor.** Lands and buildings owned and used by towns for the support of the poor therein (but private buildings on such lands are not exempt)

# Two big picture legal/statutory issues

- How is an exempt “public use” property defined?
- How does the PPC exemption in 3802(4) interact with other statutory provisions?

# Public use properties

- American Museum of Fly Fishing v. Manchester case
- Non-profit museum purchased land in Manchester and built and operated a museum that was open to the public free of charge.
- The Town assessed the property, and the museum appealed.



# American Museum of Fly Fishing v. Manchester

- Prior to case, a public use was only one that assumed an “essential government function”
  - To claim an exemption, the plaintiff must “assume a burden of the municipality to provide a service which the legislature has determined to be an essential governmental function.”
  - Example of an exemption: a summer remedial school for blind children was exempt.
  - Example of no exemption: a summer camp for Boy Scouts was not exempt.

# American Museum of Fly Fishing v. Manchester

- Court rejected “essential government function” test as too narrow.
- Property would be exempt if it is:
  - Dedicated unconditionally to a public use
  - Primarily benefits an indefinite class of people and benefits society at large
  - Is owned and operated on a non-profit basis
- Effect of decision was:
  - Broaden the type and number of properties that qualified as exempt
  - Earlier legislative study concluded that the case provided guidelines for towns that can be challenging to apply

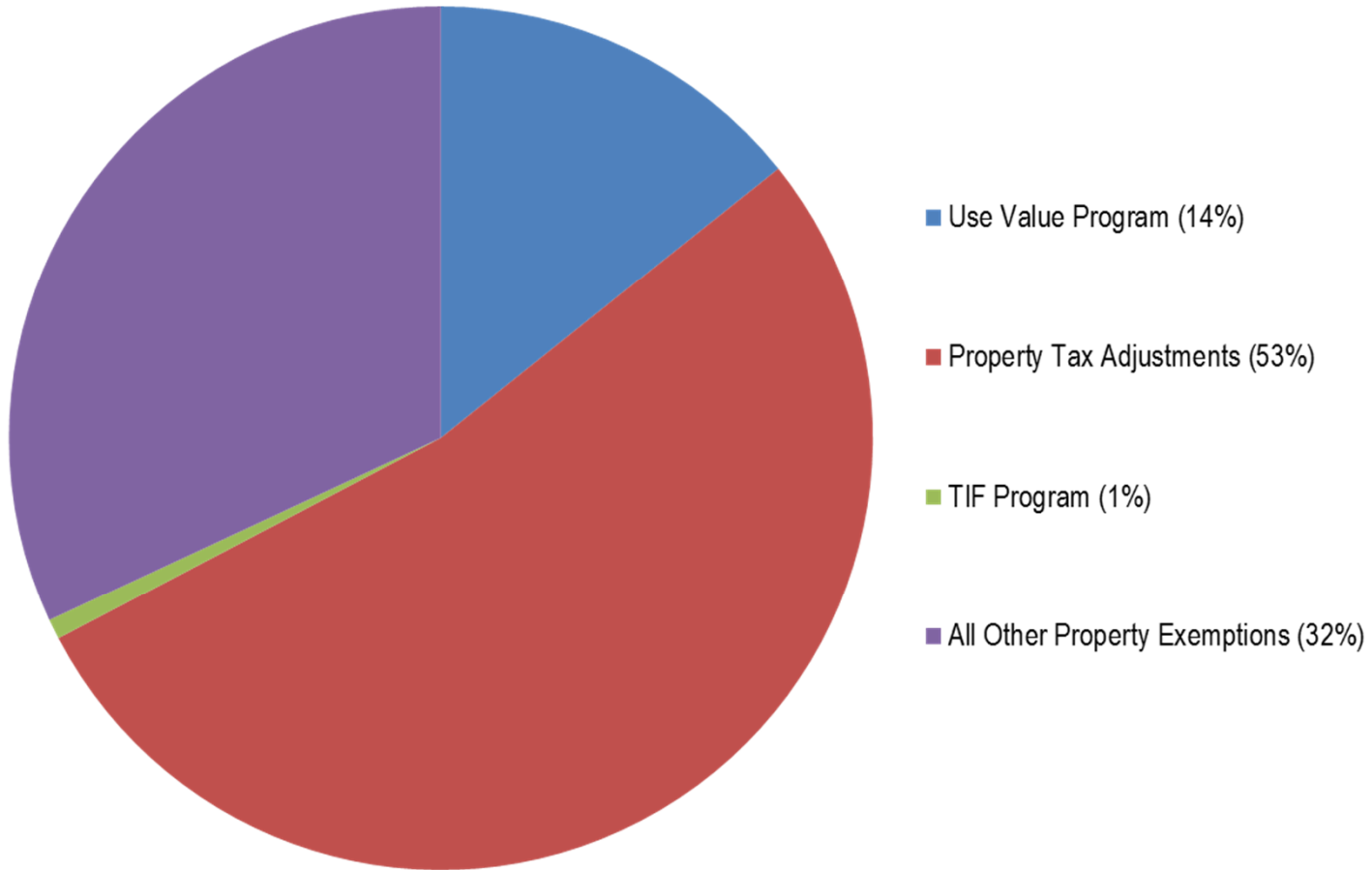
# How PPC interacts with other statutory provisions

- Some properties that seem like they may be PPC have their own statutory exemption
  - Example: Humane societies (3802(13)) and YMCA/YWCAs (3802(6)) have their own exemptions in 3802
  - Reason for independent exemption may not be clear but could be for subsequent clarity
- Some types of property have subsequent limitations placed on the exemption

# Examples of independent limitations on public, pious and charitable properties

- 32 VSA 3832 specifies some property that is not exempt as PPC
  - Example: property used primarily for health and recreation is not exempt, unless the town votes to exempt it
- 32 VSA 3840 limits exemption for some charitable organizations
  - Example: property owned by fraternal organizations, volunteer fire, and ambulance or rescue companies can only be exempt for up to 10 years if a town so votes
- 32 VSA 3831 provides for a freeze in the taxable value of college and university property acquired after 1941

# Property Tax Expenditures



# Property Tax Exemptions Summary

(see chart in handout)

# Property Tax Exemptions by Town

(see chart in handout)

# Report of the Commission on Property Tax Exemptions – 1999

- Formed after Act 60, group had 11 members and a broad mandate to examine property tax exemptions listed in Chapter 125
- Commission ended up focusing on the pious, public, and charitable exemptions, and making several recommendations
- Commission also made several recommendations for other types of exempt properties as well



# Commission recommendations on public, pious and charitable

- The Commission recommended:
  - Public, pious and charitable properties would remain exempt from statewide education property taxes
  - Decisions on whether a property was exempt from statewide education properties taxes would be appealable to the State (PVR)
  - Towns would have the option to exempt pious, public, and charitable properties from municipal taxes
- Commission also recommended the General Assembly reconsider the result in the Vermont Supreme Court's decision in American Museum of Fly Fishing v. Manchester