Ad Valorem Tax Policy in New Orleans, Louisiana

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EXECUTIVE SUMMARY

Like most municipalities in the United States, New Orleans depends on *ad valorem* taxation for a vast amount of city revenue. *Ad valorem* policy is formed by a complex web of state and local law, and different localities often adopt different strategies to fund city services, facilitate outside investment, and promote tourism. Different areas, even those that are geographically and demographically similar, have opted to use radically different strategies.

New Orleans is unique in taxation strategy because of the presence of public-private partnerships that have the ability to levy *ad valorem* taxes, often within a specific city district, for the provision of extra city services or to facilitate outside investment and tourism. Consistently, we found that these public-private partnerships share two properties: (1) the ability of the city's elected officials, especially the mayor, to staff the leadership of the taxing body with political allies (patronage) and (2) the creation of new policy options and the acquisition of resources that would be otherwise nonexistent.

While we found that transparency in tax expenditure and patronage in leadership appointments were potential issues in these public-private partnerships, we found no evidence that these partnerships are detrimental to the city. To the contrary, both the Audubon Commission and the Downtown Development District have served the city well during their respective histories; both entities have executed their respective functions efficiently and consistently. We do note, though, that these partnerships are seemingly created only when they will advance substantive business interests, outside of the highly localized and rather small "security districts" in uptown New Orleans.

INTRODUCTION

Ad valorem taxation is one of the most important forms of taxation in the modern American city, and often makes up a large portion of the of the city's total revenue. This dependence on property taxation is very much the case in New Orleans, despite the extreme property damage suffered because of Hurricane Katrina. In this study, we examined four different southern governmental entities, including both the municipal and parish/county levels, to determine if New Orleans adheres to significantly different *ad valorem* tax strategies when compared to other areas. We found that the creation of public-private partnerships, for example the Downtown Development District, with the ability to levy *ad valorem* taxes was a New Orleans specific strategy.

We identified the characteristics of these public-private entities that gained both legal recognition and voter approval. We posited that these taxing bodies would offer patronage opportunities to elected officials and would create policy options and resources, especially in the area of enticing businesses and tourism into the city that would not otherwise exist; we conclude that both of these properties are present in the city's four largest public-private tax assessing bodies. While our research into these bodies raised concerns of patronage and a lack of transparency, we are reluctant to condemn the practice as at least some of these partnerships have unquestionably been a positive force in the city, a prime example being the Audubon Commission.

I. COMPARATIVE ANALYSIS OF *AD VALOREM* TAX STRATEGIES

The first method in our analysis of New Orleans' millage policy is a comparative study with other parishes and municipalities. We selected three entities in the South Louisiana and Mississippi region, including Jefferson Parish, East Baton Rouge Parish (Baton Rouge), and Harrison County (Biloxi) in Mississippi, based on factors including size, geography, and their respective experiences from Hurricane Katrina and other storms. We were specifically interested in how each governmental entity approached its *ad valorem* tax policy and the various strategies used to finance city services.

Though some governmental services are traditionally funded by *ad valorem* taxes, we were surprised to find that each area studied had markedly different *ad valorem* tax strategies in other areas, with varying levels of taxation, transparency, and services.

As a result of the complex web of authority and high numbers of actors involved in property taxation, it is difficult to demonstrate overarching, categorical patterns in the way municipalities use or do not use *ad valorem* taxes. For example, whereas municipal efforts to foster business growth in the New Orleans Downtown Development District involve the levying of a millage to increase city services for businesses within the downtown business district, the Baton Rouge Downtown Development District seeks investment through the lowering of taxes on downtown businesses via tax abatements, credits, and waivers. By contrast, Biloxi typically routes money acquired through the city's gaming tax to improve infrastructure and services for the city's businesses. Accordingly, it makes more sense to describe each entity's strategy, analyze the context in which that strategy exists, and then determine if any of the strategies from regions outside of New Orleans can and should be applied within the city of New Orleans based on political and logistical factors.

In these comparisons, we found one significant difference between New Orleans' *ad valorem* tax policy and all of the other entities we investigated:

New Orleans is the only government entity to enter into public-private partnerships in which the created district, commission, among others, has the power to levy and spend *ad valorem* taxes.

This practice raises serious questions about the transparency of taxation, as well as the potential presence of patronage in taxing bodies.

1.1 Ad Valorem taxation strategy in Orleans Parish / New Orleans

Located at the mouth of the Mississippi River, and a few miles north of the Gulf of Mexico, Orleans Parish expands for 180.56 square miles.[1] The parish is home to a collection of neighborhoods and communities that form the city of New Orleans. Since the events following Hurricane Katrina, the City of New Orleans has suffered a severe decline in population (down 50% from the 2000 Census) with 239,124 residents.[2] The parish's median household income is $37,348.[3] In 2007, there were 111,752 housing units; however census data from 2000, depict that only 46.5% of the residents own homes.[4] Of the households, which were owned by the occupant, the median property value was $87,300 in 2000.[5] In 2007, 21.8% of the parish's population was below the poverty line compared to the state's average of 18.8%.[6]

Orleans Parish's *ad valorem* tax rate is limited to seven mills on the dollar of assessed value. Orleans Parish may levy annually an additional *ad valorem* tax for fire protection and police protection not to exceed five mills on the dollar of assessed valuation.[7] The millage rates for such additional *ad valorem* taxes cannot be increased.[8] The Louisiana Homestead Exemption does not extend to such additional *ad valorem* taxes. The additional revenues generated by these fire and police *ad valorem* taxes cannot displace, replace, or supplant funding by the city of New Orleans for fire and police protection nor can the level of funding for such purposes by the city be decreased below such level.[9] In the event of either, the authorization for such fire and police *ad valorem* taxes shall be null.[10]

Special taxing districts in Orleans include the Downtown Development District, New Orleans Business and Industrial District, Audubon Commission and Economic Development Fund, among other smaller special districts (e.g. Lakeview Crime Prevention), which collect a flat fee from property owners.[11] All of the aforementioned districts are public-private partnerships (though other public-only districts exist in New Orleans), and these public-private entities are unique in the cities studied.

The Levee District can levy an annual tax not to exceed 5.46 mills to construct and maintain levees, levee drainage, flood protection, hurricane flood protection, among other purposes incidental thereto.[12] If the District needs to raise additional funds greater than the amount authorized by the 1974 Louisiana Constitution, the taxes in excess of 5.46 mills must be approved by a majority vote of the electors of Orleans Parish.[13] In 1983, the voters of the parish elected to continue a 6.55 mill *ad valorem* tax on assessed property for a period of 30 years to finance hurricane and flood protection projects and to fund the retirement of levee improvement bonds.[14]

Last November, regional commissioners increased the Orleans Levee District millage rate by 13.5 percent to collect an additional $2.9 million in taxes this year.[15] Approved by rolling forward the levee district's *ad valorem* tax rate from 9.65 mills to 10.95 mills, the increase will add $16.25 to the tax bill of a New Orleans home valued at $200,000.[16] The increase was passed in order to keep the district functioning and to maintain and operate the district's hurricane flood protection system, which includes 104 miles of levees and floodwalls and 200 floodgates. (This took place around the same time as approved millage roll forwards for the East Jefferson and Lake Borgne Basin levee districts).[17]

In 1991, Orleans Parish voters approved a 2.5-mill *ad valorem* property tax for economic development purposes and a 2.5-mill tax for a neighborhood housing improvement program.[18] In 1995, voters rededicated half of each tax to a fund for capital improvements. The remaining 2.5 mills were rededicated to the Housing and Economic Development Trust Fund (Trust Fund).[19] That trust fund is available for both economic development projects and neighborhood housing improvement and blight alleviation.

In 2008, the total Trust Fund *ad valorem* tax of 1.82 mills generated approximately $4.2 million.[20] (In 2008, the *ad valorem* tax was rolled back from 2.5 mills.) The city's 2009 budget has $9.9 million for the Economic Development Fund (EDF) program.[21] The budgeted revenue includes unspent revenues from prior years, approximately $2.3 million to fund EDF grants approved in December 2008, and $2 million to establish a new public-private partnership to handle certain economic development functions for the city.[22]

1.2 Ad Valorem taxation strategy in Jefferson Parish

Located in South-eastern region of Louisiana and west of Orleans Parish, Jefferson Parish stretches from Lake Pontchartrain to the Gulf of Mexico. Jefferson Parish is the second most populous parish in the state of Louisiana with a combination of unincorporated communities, cities, and small towns that help to form the Metropolitan Area surrounding New Orleans. Some of the major cities and communities found in Jefferson Parish include Metairie (largest in population[23]), Kenner, Gretna, Marrero, Terrytown, Harvey, River and Ridge, all of which are located within a few minutes from New Orleans. The damage to Jefferson Parish following Hurricane Katrina varied throughout the parish, as many communities received little to no damage, while others closer to the Gulf and the Mississippi River were completely devastated. Nevertheless, Jefferson Parish continues to grow with the help of voters and the efficient allocation of *ad valorem* taxes to provide better services for residents.

Since 2000, the population of Jefferson Parish has fallen 7.0% (compared to a state decline of 3.9%) to a total population of 423,520.[24] The parish's median household income is $47,366.[25] In 2007, there were 180,704 housing units in the parish; census data from 2000 places home ownership at 63.9%.[26] Of the households which were owned by the occupant, the median property value was $105,300 in 2000.[27] In 2007, 14.6 6% of the parish's population was below the poverty line, some 4% lower than the state average.[28] In 2006, the parish was home to 12, 142 nonfarm business which employed 181,373 people.[29]

The list of parish wide millage rates in Jefferson Parish consists of 47 different rates, for a total of 158.11 mills.[30] This rate is nearly double the amount paid by residents in Orleans. However, the additional mills in Jefferson Parish stem from the parish having to provide services for nearly 200,000 more residents than Orleans Parish. Likewise, the average home in Jefferson Parish is valued almost $20,000 more than that of Orleans. Therefore, the additional taxes are feasible in order to ensure that Jefferson Parish remains an affluent area in the Southeast, and continues to grow as a parish.

Unlike Orleans Parish, Jefferson Parish is not geographically centered, as it expands for 306.52 square miles across Southern Louisiana.[31] Jefferson Parish also exists in a unique context in that Metairie and Kenner lack the governmental structures of New Orleans. Therefore, a centralized board or commission appointed through the Mayor that levies the *ad valorem* tax would not be beneficial for parish residents; the area is too expansive, decentralized, and in need of localized management. Instead, Jefferson Parish asks that residents pay specific *ad valorem* rates dedicated towards explicit projects and services. For instance, millage rates are set aside for streets, lighting, ambulances, schools, police protection, sewer systems and other services that benefit property owners and the parish as a whole.[32] With these divisions, there is no question of authority or how a service can be funded for parish residents. This tax rate specificity helps property owners not only understand the way their *ad valorem* taxes are being used, but also allows property owners to see changes within the community.

1.3 Ad Valorem taxation strategy in East Baton Rouge Parish and Baton Rouge

The City of Baton Rouge and Parish of East Baton Rouge (EBR) operate under a charter that is unusual in that the government of the City of Baton Rouge is substantially consolidated with that of the parish. Until 2005, the parish contained, in addition to Baton Rouge, two other municipalities: Baker and Zachary. In July 2005, a third municipality, the City of Central, was incorporated. These three are independent from the consolidated government.[33]

As of July 2007, the population of EBR was 430,317 people; 156,365 households; and had 102,575 families residing in the parish.[34] The median income for a household in the parish was $37,224, and the median income for a family was $47,480. [35] In addition, the per capita income for the parish was $19,790.[36]

Baton Rouge's population exploded after Hurricane Katrina as residents from the New Orleans metropolitan area moved northward following the devastation. Estimates in late 2005 put the displaced population at about 200,000 in the Baton Rouge area.[37] Despite claims from mayor-president Kip Holden of permanent growth in the region, the growth proved to be only temporary as displaced citizens returned to their home regions. Because the hurricane victims have begun returning home and native Baton Rouge residents have fled to neighboring parishes, the U.S.

Census Bureau has designated Baton Rouge the second fastest declining city in its 2007-2008 estimate. In 2008, the United States Census Bureau found East Baton Rouge Parish's population to be declining for the second consecutive year. However, the Metropolitan Baton Rouge is one of the faster growing metropolitan areas in the U.S. (under 1 million), with 600,000 in 2000 and an estimate of 770,000 in 2008.[38]

The *ad valorem* rate in East Baton Rouge Parish varies from area to area, depending on the location of the property. All *ad valorem* taxes are voted on by the residents of East Baton Rouge Parish, with different district specific taxes voted on by that district alone. Generally speaking, property within the city limits is subjected to the same rate, with the exception of property located in the Downtown Development District, the levee district, and the Comite River Diversion Canal district. Property outside city limits may have additional *ad valorem* taxes to cover items such as fire protection and/or crime district fees, road lighting, garbage, and the Comite River Diversion Canal.[39]

Although the revenues and expenditures of the City of Baton Rouge and Parish of East Baton Rouge are kept separately, some legal gymnastics have been exercised to take full advantage of the taxing power of the parish in the city. The property tax homestead exemption granted by state law applies to state, parish and special district taxes, but not to municipal taxes.[40] While parishes can levy a 4 mill property tax for general purposes and cities can levy a 7 mill property tax, the state constitution has this to say: "If a city of more than 1,000 inhabitants provides and maintains its own street system, a parish may levy only one-half of the permitted millage within the area of the city. [41] Consequently, if the City of Baton Rouge maintained its own streets, the parish property tax rate in the city would be limited to 2 mills rather than 4 mills."[42]

By simply turning the city streets over to the parish made two things possible: (1) the collection of 2 additional mills of taxation in the city, and (2) the application of the homestead exemption to this additional millage paid by city property owners.[43]

General property taxes are expected to continue the modest growth experienced in the last several years. The 2008 tax roll for the East Baton Rouge Parish had an assessed valuation of \$3.81 billion. Of this amount, \$656.8 million represents the valuation of exempt homesteads (\$7,500 of assessed valuation for state, parish, and special *ad valorem* taxes).[44] The 1974 Louisiana State Constitution authorizes the governing authorities of municipalities and parishes to levy annually *ad valorem* taxes of 7 and 4 mills, respectively. The *ad valorem* rate may be adjusted upward or downward in reassessment years to prevent gains or losses in revenues due to reassessment.[45]

In 2008, the Metropolitan Council elected to roll back the millage rates for the city and parish to 6.48 and 3.54, respectively. [46] The authorized maximum millage rates are 6.85 and 3.78 mills until 2012.[47] Municipalities with a population of 75,000 or more may levy a special tax not exceeding 1 mill for the purpose of providing a three-platoon police system. [48] The maximum authorized *ad valorem* tax through the 2012 reassessment is .99 mills, in which the Council rolled this rate back to .94 mills.[49] Total receipts for the General Fund are projected at \$23.4 million, with \$60.5 million estimated for Special Funds.[50]

1.4 Ad Valorem taxation strategy in Harrison County / Biloxi, MS

Located on the Gulf of Mexico roughly one hundred miles from New Orleans, Mississippi's Harrison County is one of the most populous and developed areas between the New Orleans metropolitan area and Mobile, Alabama. The county, which is home to the municipalities of Biloxi, Gulfport, Long Beach, Pass Christian, and D'Iberville, received extensive damage in 2005's Hurricane Katrina, entailing an extensive amount of property damage and, concurrently, loss in *ad valorem* tax revenue. However, unlike some other areas in the Gulf South, Harrison County's recovery has been both significant and efficient.

Since 2000, the population of the county decreased by 7.1% (compared to a state-wide decline of 2.65) to a 2007 total population of 176,105.[51] The county's median household income is $40,803.[52] In 2007, there were 80,167 housing units in the county; census data from 2000 places home ownership at 62.7%.[53] Of the households which were owned by the occupant, the median property value was $87,200 in 2000.[54] In 2007, 15.6% of the county's population was below the poverty line, some 5% lower than the state average.[55] In 2006, the county was home to 4,163 non-farm business which employed 60,854 people.[56] Though there has been a significant amount of growth since this employment assessment, the 2006 data marked a staggering 23.8% decline in non-farm employment.[57]

With declines in the amount of lived-in housing units and business establishments, Harrison County's ability to raise *ad valorem* taxes has been damaged. However, Harrison County has been able maintain fairly constant and low millage rates throughout the past decade and a half. Much of this is due to the presence of major casinos within the county, a product of a 1992 referendum which approved gambling on such a scale.

Biloxi, Harrison County's second most populous (44,342 residents in 2006) and most population- dense municipality offers an interesting case study in *ad valorem* policy.[58] Biloxi's municipal revenue in the fiscal year of 2005 (pre-Katrina) was around $50 million.[59] Whereas *ad valorem* taxes accounted for just over $15 million, the gaming tax generated some $25 million that year.[60] Since 1996, Biloxi has been able to halve its city millage rate to 30 mills on the dollar; a number that has remained consistent since 2001. In sum, Biloxi residents paid 104.62 mills in 2008, a sum that includes property taxes from all levels of government.[61] While a steady rise in property values has raised the yield of Biloxi's *ad valorem* rate, the gaming tax has been able to supplant the use of *ad valorem* dollars as Biloxi deals with post-Katrina recovery issues.

The money flows from the gaming tax as follows. The state of Mississippi collects the taxes from the casinos within Biloxi, at a rate of 12% on each casino's "gross gaming revenue."[62] The state retains 8% of the gross gaming revenue is retained by the state, and 3.2% is returned to the "respective gaming community" – Biloxi.[63] Of the amount returned to Biloxi, the general fund receives 40%, city public safety receives 20%, the Biloxi School Board receives 20%, the county public school system receives 10%, and the county public safety departments receive the final 10%.[64] In the fiscal year of 2008, Biloxi received a sizable $31,406,725 from the gaming tax.[65] The general fund received $12,562,000, the city's public safety departments received $6,281,000 collectively, as did the Biloxi School Board.[66]

Unlike New Orleans, Biloxi has desperately avoided the creation of new *ad valorem* taxes outright. Mayor A. J. Holloway has adamantly advertised his commitment to fiscal conservatism, and his administration has prided itself on not raising *ad valorem* taxes within the city. Indeed, Biloxi has the lowest millage rate in Harrison County and one of the lowest in the state of Mississippi.

It is politically and logistically untenable to imagine the creation and substantive expansion of casinos and other gaming outlets in New Orleans. Therefore, a "Biloxi solution" to increase revenue by such a large percent without raising taxes is unrealistic, despite New Orleans' considerable tourism industry. Further, Biloxi is much smaller than New Orleans, and projects such as the Downtown Development District would not make much sense for the city's taxpayers.

1.5 Ad Valorem taxation strategy - Section conclusion

Outside of spending on basic governmental services such as police, fire protection, and schools, each city has adopted unique approaches and strategies in *ad valorem* tax policy with varying levels of transparency. With public-private partnerships that have the ability to levy and spend tax dollars, with voter support, New Orleans has forfeited the most control over governmental spending of any entity in this study; no other entity in this study has such a public-private body. Such behavior raises questions of transparency, as entities such as the Downtown Development District provide much less information about the specific use of tax dollars when compared to, say, Jefferson Parish. It is worth noting, though, that this lack of transparency does not necessarily lead to inefficiency and waste; this is an excellent question for continued research.

Patronage in the taxation system also presents a potential concern, and this subject will be explored in the next section. Orleans Parish's millage rates are of an average to high height when compared to the other entities in this study. While all Biloxi residents pay less in *ad valorem* taxes than residents in any single district in New Orleans, Orleans Parish residents can, in general, expect to pay property taxes around the levels in East Baton Rouge Parish or Jefferson Parish (much depends on the type of property, district, and current incentive programs in question).

Jefferson Parish aggressively uses *ad valorem* taxes, with a rather high parish-wide rate of 158.11 mills assessed on taxable property. This rate is significantly higher than the rate in Orleans Parish. Jefferson's *ad valorem* taxes are notably "pointed" in that they are very particularized; there is never doubt as to the purpose of a proposed or current *ad valorem* tax. Consequently, Jefferson Parish has a greater number of *ad valorem* taxes, generally in smaller amounts. Jefferson Parish, which sprawls down to the Gulf of Mexico, is a large and populous parish that lacks true municipalities; population, decentralization, and a lack of other governmental entities can help to explain this level of taxation. Jefferson Parish was the most transparent entity in this study, as every single dollar was taxed for specific spending projects, especially when compared such aqueous New Orleans millage assessing bodies like the Downtown Development District or the Audubon Council. In other words, Jefferson Parish does not enter into public-private partnerships which allow for less government and, by default, electoral control over how tax dollars are spent.

East Baton Rouge Parish and Baton Rouge have an interesting, symbiotic relationship in which the line between parish and city are highly blurred. City officials, aware of this special relationship, have engaged in strategies which allow maximum taxation, an example being that of street funding. Baton Rouge, like New Orleans, enters into substantive public-private partnerships to advance business interests. However, Baton Rouge does not entrust these partnerships with powers of taxation *per se.* The Baton Rouge Downtown Development District is uses tax credits and abatements to draw businesses to the downtown area. New Orleans attempts to improve the business environment with improved services; Baton Rouge attempts to lower the cost of doing business in the city. Though they both technically involve *ad valorem* taxes, the Baton Rouge Downtown Development District lacks the authority to levy taxes or spend actual city money, even through the electoral process. Like Jefferson Parish, East Baton Rouge Parish and the City of Baton Rouge have a more transparent, pointed *ad valorem* tax policy than New Orleans, though Jefferson Parish remains the most transparent by virtue of millage specificity.

Harrison County and Biloxi are the two most significant outliers in this study, as they were the only entities in which *ad valorem* dollars did not make up the majority of the entities' revenue. With a high dependency on gambling, Biloxi specifically and Harrison County in general have managed to keep their *ad valorem* rates extremely low; Biloxi has by far the lowest *ad valorem* rates in this study. However, it is also worth noting that Biloxi is significantly less transparent than Jefferson Parish and East Baton Rouge Parish; though Biloxi was excellent in its descriptions of spending projects, with clearly stated goals and dollar amounts, the city's millage revenue is pooled and spent on various municipal projects. In other words, a great amount of *ad valorem* dollars go into a lump general fund, meaning it is all but impossible to trace where specific dollars go.

II. NEW ORLEANS PUBLIC PRIVATE PARTNERSHIPS

In the previous section, we identified the creation of public-private partnerships that have the ability to levy *ad valorem* taxes as being a strategy specific to New Orleans. The purpose of this section, then, is to analyze these partnerships, which include the Audubon Commission and the Downtown Development District, the Economic Development Fund, and the New Orleans Business and Industrial District (NOB&ID), to determine what characteristics may have lead to their suggestion for referendum and subsequent approval.

From this, we hope to infer the composition of successfully proposed *ad valorem* taxes in the specific area of public-private taxing partnerships, with special attention paid to questions of patronage and the expansion of elected officials' power. By "patronage," we mean the ability of the mayor to appoint the special district's leaders (often times business elites) with majority approval of the city council. By "expansion of elected official's powers," we mean the ability of the mayor, with a majority of the city council, to appoint allies into a special district's leadership council for the purpose using tax dollars to advance that coalition's interests *with tax dollars they* *would otherwise not have.* In other words, we are looking for the presence of two factors: outright patronage potential and the ability, through the creation of a special taxing district and the appointment of allies, to affect city policy and use resources that would be *otherwise unavailable.* We think it unlikely that taxing bodies without these two properties will lack the political capital to become law.

Before describing the four major public-private *ad valorem* taxing bodies, it is important to explain the process by which these bodies are approved and their place in New Orleans' tax system. Of the bodies in this study, there are three separate ways to become a millage receiving body, though *all* of the actual *ad valorem* rates must be approved by referendum. The Audubon Commission was originally created by the state, and subsequent changes in rates and structure have been approved by city referendums. The Economic Development Fund was established by a 1991 city-wide referenda. Both the Downtown Development District and the NOB&ID were created by state legislation.

Special districts are created to provide better services for specific districts or neighborhoods. Some are based on the assessed value of property, while some are strictly a flat fee paid by property owners within the special district. Either way, these supplementary mills are used to provide additional services to property owners.

2.1 The Audubon Commission

The Audubon Commission is a public body authorized to administer, operate, and maintain facilities administered by the commission, including Audubon Park. The initial commission (Audubon Park Commission) was established through a State Act in 1914, however it was not until an amendment to the city charter that the city gained uncontested control of this public-private partnership.[67] The commission consists of 24 members appointed by the Mayor of New Orleans with the consent of the City Council.[68] The appointed-commission oversees the Audubon Park, Audubon Zoo, Aquarium of the Americas, Woldenberg Riverfront Park, Insectarium and several other facilities, which are all operated by the private, nonprofit Audubon Nature Institute.[69] Currently, the Audubon Commission has set two *ad valorem* tax rates, valued at 3.31 mills.[70]

The creation of the Audubon Commission dates back to the creation of the city charter. Upon establishment, the city charter called for the members of the committee to be appointed by the Mayor and Council. However, in 1982 the state legislature attempted to restructure the commission through the appointment of 23 commissioners by the Governor of Louisiana and one from the mayor. The city sued (*City of New Orleans v. Treen*, LA 1983) and the act was deemed unconstitutional, on grounds that the law was enacted without public notice.[71]

In a second attempt to restructure the Audubon Commission, the state legislature gave the required public notice, but the court still ruled in favor of the city, because the property belonged to New Orleans and the State had no right to the property (City *of New Orleans v. State of Louisiana* 1984).[72]

Over the past few decades, the city has aggressively sought to retain its control over Audubon in the face of the state's attempts to take over. Currently, the Audubon Commission is the only public-private partnership with a Park within the city to have its own taxing power with a board appointed by the Mayor.

2.2 The Economic Development Fund

The Economic Development Fund is a city-wide fund with a 1.83 city wide *ad valorem* tax. The fund is responsible for funding a number of business and residential projects in the city.[73] The fund was approved in a 1991 referendum.[74] The city accepts Economic Development Fund applications once a year and makes every effort to review and submit all applications to the Economic Development Committee on a timely basis.

Economic development projects include but are not limited to, physical infrastructures, including buildings that enhance private debt, venture, or seed capital. These efforts may include but are not limited to those projects that are within the normal purview of city government, including, but not limited to projects or activities that enhance trade, commerce, or the attraction of visitors to the city. The city will not finance any projects that do not have current funding in place greater than or equal to the amount applied for.[75]

The minimum goal for job creation will be one permanent, full-time job. Each project, subsequent to the staff review and Cost- Benefit Analysis (CBA), will make a presentation to the Economic Development Advisory (EDA) Committee. The grant amounts are fully dependant on the approval of the Mayor, the Economic Development committee, the Special Projects Committee, the Budget Committee and the full city council.[76]

The Economic Development Fund is managed by the Office of Recovery and Development Administration. The Project Management Team for *ad valorem* tax revenue expenditure is headed by a private subcontractor: MWH Americas, Inc. The Office of Recovery and Development Administration defers to the city council for final approval on budgetary matters.[77] The city monitors public benefit standards and compliance with Administrative and Council objectives on at a quarterly basis as determined by current city council precedents. Applicants should be prepared to report to the Economic Development Advisory Committee, the Special Projects committee, the Budget Committee, and/or the city council on a quarterly basis with a prepared report documenting progress against the goals set forth in the application.[78]

2.3 The Downtown Development District

On July 12, 1974, the state legislature authorized the Downtown Development District (previously known at the Core Area Development District of the City of New Orleans) to raise funds through a 10 mill tax on properties upon the approval of local voters.[79] Through referendum, the maximum *ad valorem* tax rate was increased to 22.9 mills and provided that voters could renew the tax for an additional twenty five years. [80]

With the creation of the Downtown Development District bounded by Iberville Street, the Pontchartrain Expressway, Claiborne Avenue, and the Mississippi River, property owners are ostensibly guaranteed a safe and clean district. Downtown Development District is responsible for making sure that the streets are cleaned, trees are cut, and that property owners have sufficient storage for trash.[81] Some other services provided include grants to help property owners fund Graffiti Removal, Sidewalk Enhancements and Façade Improvements.[82] These three grant programs aid in keeping the Central Business District clean and the promotion a comfortable environment for its residents, workers and visitors. [83] In addition, the Downtown Development District also provides additional Police Officers, who actively patrol and practice a community policing model to anticipate problems before they arise and Public Safety Rangers who interact with visitors and workers Downtown.[84]

Like many of the other boards within the Orleans Parish, The board of commissioners for the Downtown Development District consists of a panel of 13 members, 11 of which are appointed by the Mayor, with two more appointed by the Downtown State Senator and State Representative.[85] Of these thirteen members, all remain prominent and serve on numerous lobbying groups.

2.4 The New Orleans Business and Industrial District

The New Orleans Business and Industrial District (NOB&ID) was established by state law "for the purpose of providing services and improvements" within the roughly 7000 acre area between the Intracoastal Waterway, the Industrial Canal, the CSX Railroad, and the Maxent Canal.[86] According to the Bureau of Governmental Research (BGR), its specific purpose includes "acquisition, construction, improvement, maintenance, and operation of special projects, capital improvements, and facilities within the District."[87]

In 1996, the NOB&ID helped alter the districts infrastructure to recruit new forms of industry, including offices, lighter industry, and high tech companies.[88] In general, millage funds received from the businesses within the district are used in a manner similar to that of the Downtown Development District. However, the NOB&ID has been unable to raise near the amount of money as the Downtown Development District despite its lofty allowed *ad valorem* tax rate of 22.79 mills on property within the district. For example, the NOB&ID's total revenue in 2002, including money raised outside of *ad valorem* taxation, totaled a mere $2,599,725.[89]

The NOB&ID has a long history of patronage, as pointed out by UNO's Center for Economic Development in 2001.[90] Before 1995, the mayor appointed, with approval of a majority of the city council, and nine of the twelve of the district's board of commissioners. After numerous complaints of blatant patronage, the state intervened in 1995 and distributed the mayor's eight appointments to the board to various elected officials at different levels of government (the mayor retained two).[91] The UNO group maintains, though, that patronage remains a significant problem, as qualified local business experts and elites are left out of the board of commissioners for apparently political reasons.[92]

2.5 Public-Private Partnership Section Conclusion

As indicated by the previous section's research, New Orleans' tax assessing public-private partnerships are unique to the governmental entities in this study. We posited that the creation of these districts and funds would be coupled with opportunities for both patronage and the expansion of elected officials' policy options and resources. In every case, we found that both of these properties were present.

The Audubon Commission is a fixture in New Orleans, and the Mayor has long retained the ability to appoint the commission's rather large number of seats with Council approval. Not only can patronage serve to reward allies of the Mayor, but the commission helps to bring exposure, tourists and business to the city without impacting the general fund. This is a direct result of the world-class status the Audubon Park system enjoys. Accordingly, the New Orleans viciously wrangled with the state to disallow a state takeover of appointment power. The Audubon Commission's taxing mandate is decades long, and elections to reapprove their taxing powers come rarely.

The Economic Development Fund's revenue is guided by a complex body of public agencies and private contractors. Much of the revenue goes towards the creation of new business opportunities in the city, especially those that can bring jobs and/or tourists. An interesting question for further study would be to investigate if prominent members of the companies involved in project approval and revenue distribution have donated to the city's dominant political regime. Again, through mayoral appointment power accompanied by bare city council majority approval, we see the clear potential for patronage and the creation of resources to foster business development in the city that would not exist without this *ad valorem* tax assessing body.

The Downtown Development District is one of the city's most important assets for the maintenance of the central business district's current composition, as well as the recruitment of new business development. The Downtown Development District's board is staffed by numerous local business elites who actively engage in governmental lobbying. Because of the nature of mayoral appointment, patronage potential in this organization is sizable, and the extra resources and policy options gleaned from the district's extra tax revenue are sizable.

The New Orleans Business and Industrial District strives to mimic the extra service provision strategy for attracting business that the Downtown Development District employs, though they have been less successful for a number of reasons. With reports of rampant patronage, including a detailed BGR report which found that the district's board of commissioners were often selected on political grounds and were not always qualified to serve on the board, there can be little doubt as to the use of the NOB&ID's board as a tool to reward political allies. Its purpose is to foster economic development with the resources created by this district's tax, though many of the efforts have been largely superficial.

Our research strongly suggests that the conditions by which special districts with *ad valorem* tax assessing powers are present when the proposal in question benefits the political and business elites of the city. All of the groups studied had the potential for patronage-based appointments, advanced business interests, and created new resources for city policy makers. Additionally, these groups have the potential to aid elected officials in electioneering (i.e. the creation of new jobs or investment). What we did not find was a millage assessing body specifically created for the purpose of advancing non-business interests, unless one considers the very localized “security districts” in uptown New Orleans.

Additionally, a note of interest in our research was the clear amount of political capital needed to create one of these public-private tax assessing partnerships. Of the four major partnerships in this study, three were originally created in Baton Rouge by the state. Seemingly, one would need powerful political and business allies to successfully propose one of these public-private bodies.

III. CLOSING REMARKS

We have identified transparency and patronage as potential issues in New Orleans’ public-private tax assessing partnership system. However, we have not seen a compelling reason to recommend a major alteration to the current public-private system in the city. Furthermore, we doubt such an alteration would be politically feasible or desired among elected officials. We do, however, note that there are steps, which can be taken to increase transparency within the system. For example, Jefferson Parish takes great strides to ensure that millage fund expenditures are clearly detailed. Detailed expenditure breakdowns of how *ad valorem* dollars, paid to public-private bodies, are spent, may greatly increase accountability in the public-private tax assessing bodies. New tax labeling and presentation would help to ensure that appointed officials are spending in an open and productive manner. This can be achieved by offering a breakdown of a given millage by specifying which percent of the year’s tax revenue will go to what specific program.

APPENDIX A. ORLEANS PARISH WIDE AD VALOREM TAXES 2008[93]

Millage Description Orleans Parish (Parish-Wide)	Election Date	Number of years approved	Expiration Date	Millage Rate
Law Enforcement District, Criminal Sheriff	02/03/1990	20	12/31/2009	2.90
Levee District Orleans	00/00/0000		00/00/0000	4.13
Levee District Orleans	03/05/1974		00/00/0000	0.57
Levee District Orleans	11/19/1983	30	12/31/2015	4.95
School Board, Orleans Parish			00/00/0000	20.11
School Board, Orleans Parish	05/02/1998	10	12/31/2008	1.55
School Board, Orleans Parish	05/02/1998	10	12/31/2008	1.55
School Board, Orleans Parish	05/02/1998	10	12/31/2008	7.27
School Board, Orleans Parish	04/16/1988	20	12/31/2008	2.32
School Board, Orleans Parish	07/15/1995	30	12/31/2025	5.67
Board of Liquidation, City Debt	07/15/1995	30	12/31/2024	23.80
General Municipal Purposes			00/00/0000	10.85
Police and Fire Departments, Platoon Systems			00/00/0000	4.66
Police Protection			00/00/0000	3.98
Fire Protection			00/00/0000	3.94
Public Library	11/04/1986	35	12/31/2021	3.14
Sewage and Water Board, Drainage		50	12/31/2016	4.66
Sewage and Water Board, Drainage	04/16/1977	50	12/31/2027	4.71
Sewage and Water Board, Drainage	05/16/1981	50	12/31/2031	7.06
Housing and Economic Development Trust Fund	07/15/1995	26	12/31/2021	1.82
Parkway and Parks Community: New Orleans Recreation Department	07/13/1991	30	12/31/2021	2.18
Street and Traffic Control	07/13/1991	30	12/31/2021	1.38
Capital Improvements & Infrastructure Funds	07/15/1995	26	12/31/2021	1.82
Zoological Garden, Audubon Park	11/17/1972	50	12/31/2022	.32
Aquarium, Audubon Park Commission	11/04/1986	35	12/31/2021	2.99
TOTAL MILLS PARISH WIDE				**85.30**

APPENDIX B. JEFFERSON PARISH WIDE AD VALOREM TAXES

Millage Description for Jefferson Parish (parish-wide)[94]	Election date	Number of years approved	Expiration date	Millage Rate
School District	10/04/2003	10	12/31/2012	9.00
Special Services District	11/02/2004	10	12/31/2014	2.07
Court and Judicial Ser Fund, Com Park and Culture Ser Fund	11/02/2204	10	12/31/2014	0.82
General Alimony (Grand Isle)		0		7.17
Water and Gas Systems	01/19/2002	10	12/31/2011	5.06
General Alimony (Harahan) C		0		4.15
Sewerage Maintenance	03/05/1977			0.89
General Municipal Purposes	03/05/1977			1.63
Fire Department	07/16/2005	10	12/31/2014	5.00
General Municipal Purposes	22/02/1982			2.37
Sewer Collection and Treatment Facilities	07/19/2003	10	12/31/2012	1.77
General Alimony(Kenner) C				2.08
School District Number 1	03/31/2007	10	12/31/2017	4.00
Transportation System	03/27/1999	10	12/31/2008	1.30
Transportation System Elderly	03/27/1999	10	12/31/2008	0.65
Forensic Medical Facility (Coroner)	03/14/2000	10	12/31/2009	1.00
Drainage District Number 2 Console	01/20/2001	10	12/31/2010	3.61
School District Regular				2.91
Schools Parish wide	04/17/2004	10	12/31/2014	7.00
General Alimony				1.38
Law Enforcement District				8.28
Coroner				0.56
Health and Human Service and Animal Shelter	01/20/2001	10	12/31/2010	1.65
Library	03/08/2008	10	12/31/2017	6.50
Garbage Collection and Disposal	11/17/2001	10	12/31/2011	1.61
Fire Department	11/17/2001	10	12/31/2011	7.40
Wastewater Operations (sewer)	11/17/2001	10	12/31/2011	1.14
Streets	11/20/1999	15	12/31/2017	5.90
General Alimony (Westwego)		0		3.55
Street Lighting	11/17/2001	10	12/31/2011	2.56
Park Maintenance and Lighting	11/17/2001	10	12/31/2011	2.56
Fire Protection District	11/17/2001	10	12/31/2011	4.28
Police Department	11/17/2001	10	12/31/2011	4.28
General Alimony (Gretna) C		0		4.32
Police Protection	10/20/2001	10	12/31/2011	5.76
Fire Protection	10/20/2001	10	12/31/2011	1.31
Recreation District	05/04/2002	10	12/31/2012	1.86
Street Lights	07/16/2005	10	12/31/2015	2.74
Ambulance Service	07/21/2007	10	12/31/2017	3.59
Sewer System	07/16/2005	10	12/31/2015	1.65
Sewer Maintenance Facilities	10/07/2000	10	12/31/2009	1.98
Fire Protection	07/15/2006	10	12/31/2016	3.42
Fire Protection	10/20/2001	10	12/31/2010	2.73
Recreation Service and Social Service	10/20/2001	10	12/31/2011	2.06
Fire Protection	07/21/2007	10	12/31/2017	7.06
Ambulance Service	07/19/2003	10	12/31/2012	2.21
Police Department	07/19/2003	10	12/31/2012	3.29
Total Mills Parish-Wide				158.11

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