

Top Ten Nonprofit Policy Issues: 2011 State and Local Policy Review

To anticipate the public policy issues that nonprofits will face at the state and local levels in 2012, it is useful to review the significant policy challenges and opportunities that nonprofits faced in 2011. The following brief analysis shares a sampling of insights that the National Council of Nonprofits gained through its work with the collective network of [State Associations](#) of nonprofits and other nonprofit organizations active at state and local levels.

- 1. Shifting Fiscal Obligations:** State and local policymakers continued in 2011 to [offload their public responsibilities](#) by slashing funding for and sometimes even eliminating essential programs, expecting that others – nonprofits and foundations – would fill the voids and pick up the slack. [Apparently without knowledge](#) of the severe strains already burdening charitable nonprofits, governors from [Washington State](#) to [Michigan](#) and [South Carolina](#) – across the country and across the political spectrum – openly turned to nonprofits to assume responsibility for programs that their governments were unwilling to provide. In [Arizona](#), [California](#), and [New Jersey](#), to name only a few, public officials abandoned operations for parks, public museums, and community development as a way to save money, at least for the state. And states actually sought to divert philanthropic dollars from existing nonprofit activities to government programs by creating their own nonprofits, such as the [Kansas Arts Foundation](#) that replaced the state-run Kansas Arts Commission.
- 2. Boston PILOT Scheme:** Boston’s elected officials tried to evade 200 years of Massachusetts law that prohibits cities from imposing property taxes on tax-exempt charities by asserting that they were merely seeking “voluntary” [payments in lieu of taxes \(PILOTs\)](#). But instead of sending letters requesting donations of a truly voluntary nature, the city – with all the subtlety of a scarlet letter – sent simulated property tax bills to the 45 largest nonprofit landowners demanding “voluntary” payments of up to 25 percent of an imaginary tax liability. While many targeted institutions yielded, several others refused to concede to the [coercive extra-legal demands](#), noting they give benefits to the community *every day*.
- 3. A Tale of Three Cities:** Nothing reveals the challenges tax-exempt nonprofits face at the local level better than their experiences dealing with policymakers who were so desperate for money that they seized at any justification for grabbing charities’ funds without resort to consistent principles. As noted, Boston, without authority of law, demanded payments in lieu of taxes from larger nonprofits. In [Chicago](#), the Mayor declared that while he regarded taxing nonprofits a non-starter, he nonetheless intended to require nonprofits to start paying certain fees to the city. [New Orleans’](#) Mayor rejected PILOTs and fees as unworkable and inappropriate, but called on the Louisiana Legislature to allow the city to directly tax the property of charitable nonprofits. These three mayors proffered three contradictory rationalizations for filling their budget holes. Their shared similarity was the practical effect each scheme would have on local communities: diverting already committed and vitally needed resources away from nonprofit missions – money contributed to deliver programs and services for individuals and local communities.
- 4. Respecting Tax Exemption:** However, in the overwhelming number of cases in 2011, the majority of policymakers successfully fought back short-sighted efforts to take resources away from nonprofit missions through sales taxes, property taxes, and other new taxing mechanisms. For instance, new taxes were proposed yet rejected in [Georgia](#), [Rhode Island](#), and [Washington, DC](#); the general excise tax exemption was threatened but preserved in [Hawai’i](#); and the [New Orleans](#) property tax campaign was ultimately withdrawn. In all these situations, nonprofit organizations stepped forward with extensive advocacy efforts that demonstrated the positive impact of their work and the negative consequences of the legislative proposals to divert funds that had been donated to charities. Indeed, the [North Dakota](#) Legislature actually extended tax exemptions to enable more nonprofits in the state to focus on their mission-related work.

5. **Collaborating for the Public Good:** When government officials sat down as partners with nonprofit leaders – as occurred in 2011 in [Connecticut](#), [Illinois](#), [Maryland](#), [North Carolina](#), and [Texas](#) – they developed lasting solutions that will improve services for the people who need them most, ensure that taxpayers receive full value for the programs they are funding, and strengthen communities. Likewise, a [New York](#) working group and a [New Jersey](#) Red-Tape Review Commission began looking into needed reforms to streamline the interactions between government, nonprofits, and others. In each of these states, representatives of government agencies that contract with nonprofit human service providers collaborated with nonprofit contractors to identify problems and solutions to broken contracting policies, procedures, and practices. Much of 2012 will be devoted to implementing the recommendations of the state task forces and providing examples to the rest of the country of collaborations that can solve problems in ways that serve everyone’s best interests.
6. **Meaningful Seats at the Table:** [Connecticut](#)’s Governor became the first in the nation to establish a cabinet-level official to serve as liaison with nonprofits providing services to its citizens on behalf of the government. The Governor also created a permanent [Cabinet on Nonprofit Health and Human Services](#) to examine and enhance the effectiveness, transparency, and efficiency of partnerships between the state and nonprofit health and human service providers. Most recently, [Iowa](#) created the Governor’s Nonprofit Project to “encourage changes in policy and procedure that create efficiencies in the interactions between state governments and the nonprofits that provide invaluable services to their citizens.” In these states and elsewhere, solution-oriented nonprofits are being invited to the policymaking table to resolve the most pressing social problems of the day.
7. **Reasonable Regulation:** Michigan updated its [Charitable Organizations and Solicitations Act](#) to streamline regulations and clarify when and how an organization must file with the Attorney General’s Office. [New Jersey](#) raised the threshold for mandatory audits under the fundraising statute from \$250,000 to \$500,000, saving each smaller organization an average of \$7,000 annually, and collectively saving the state’s nonprofits more than \$10 million that can now be devoted to program work rather than more paperwork.
8. **Losing Their Incentives:** After years of progress, taxpayers in some states saw a loss of government incentive for their donations to the work of charitable nonprofits. In [Hawai’i](#), the Legislature imposed caps on the amount that upper-income taxpayers can claim in itemized deductions. [Michigan](#) repealed long-standing tax credits to encourage donations to food banks, education, and community foundations in order to pay for tax cuts for businesses. In [Montana](#), however, a similar effort to end the state’s Charitable Endowment Tax Credit failed in mid-March after lawmakers learned that the tax credit was in fact a powerful tool for fostering both economic and community development.
9. **Mandatory Volunteerism:** Legislators in multiple states proposed bills promoting a policy that can only be called “mandatory volunteerism”: requiring individuals to volunteer with a nonprofit for a certain number of hours per week to be eligible for certain public programs. Bills were introduced to impose “volunteerism” mandates before individuals could receive unemployment benefits in [Florida](#), [Georgia](#), and [North Carolina](#), and Medicaid services in [Utah](#). None of the bill sponsors has asked whether nonprofits want or can even handle an onslaught of tens of thousands of individuals who would be forced to show up *to do time* rather than *to do good*.
10. **Nonprofits Are Not “Quasi-” Anything:** Under well-established American law, charitable nonprofits are private corporations. Yet in 2011, too many policymakers had difficulty understanding that, *as in the case of for-profit businesses*, receipt of public funding through arms-length transactions involving contracts or grants does not convert private independent organizations into governmental instrumentalities. Lawmakers in [Florida](#), [Massachusetts](#), [Nevada](#), and [New Hampshire](#) sought to impose ineffective and burdensome mandates, restrictions, and other reporting burdens on nonprofit contractors on the gross misunderstanding that private nonprofit organizations are somehow “quasi-governmental,” “government-sponsored,” or “publicly supported” entities.

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