



THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Association Wins Free Speech Lawsuit Regarding HB 43

Last November, your Taxpayers Association filed a lawsuit against the state challenging the legality of House Bill 43, which was passed by the Legislature in the 2013 General Session.

HB 43 sought to force non-profit organizations, for whom political activity is not its primary purpose, to disclose their donors if the organization spent more than \$750 on political advocacy.

While the Legislature may have been well intentioned in passing HB43, the fix turned out to be a situation of taking a sledgehammer to an issue where a scalpel was needed.

While it makes sense to require disclosure from organizations whose primary or sole purpose is political – as they directly affect government processes and outcomes – the bill expanded the reporting requirements to include organizations whose political advocacy is infrequent and, more often than not, focused on advocacy and education.

That's why HB 43 posed a problem. Organizations like the Taxpayers Association engage in a number of public interest activities, such as holding public forums, publishing educational materials and conducting original research. This is our primary purpose; by law, political advocacy on our part can be and is only a limited aspect of our overall effort.

This bill was harmful as it had the ability to silence non-profit organizations from the constitutional right to participate in the political process. Fortunately, the state agreed with our concerns and agreed to settle the case before any trial was needed, saving taxpayer money and restoring state law to ensure that non-profit organizations will still be able to have a voice in Utah's political happenings.

Under the settlement:

- The state will not enforce HB 43 against non-profit organizations who engage "in constitutionally protected political advocacy and political issues advocacy," recognizing that doing so would be "unconstitutional unless those organizations are

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My Corner: Something Smells in Utah's Special Service Districts

State Auditor John Dougall's recent scathing audit of the Utah Local Governments Trust has the Utah Taxpayers Association claiming the waste and mismanagement uncovered is only the tip of the iceberg. Taxpayer

money is misused when no one is "minding the store" of the invisible government entities most taxpayers have no idea even exist.

In his weekly HBO show, "Last Week Tonight" comedian John Oliver exposed the ugly underbelly of America's most hidden level of government: 40,000 special service districts which spend \$100 billion annually, more than Russia spends on its military.

Utah has hundreds of entities like this, most of them known as special service districts or interlocal agencies. These bodies have access to taxpayer money via assessments on the public funds of cities and counties, fees paid by homeowners and businesses or property taxes. The governing boards of these districts often include elected officials but most also include appointed individuals who have no accountability to taxpayers but whose votes are weighted the same as elected officials.

In 1984, State Auditor Val Oveson called special districts the "hidden level of government", but they have only continued to proliferate. Just this year Senator Lincoln Fillmore's SB 235, which would have required elected officials to have the final say over special district tax increases failed to get out of the Senate.

These districts cover a number of government services ranging from mosquito abatement to sewer and water to animal services. Most taxpayers are unaware of these entities, which means their actions are under the political radar. Since they are often forgotten, taxpayer money is often wasted, as is the case of the Local Governments Trust.

But one of the worst effects of Special Districts is that they often form a cartel to limit lower-cost competitive, free enterprise solutions. This is exactly what is happening with certain districts that deal with garbage along the Wasatch Front.

A group of five special service districts that provide garbage services along the Wasatch Front is considering an ill-conceived plan that will give government landfills the upper hand over their privately-owned competitors. The special service districts have acted to move power even further from elected city and county councils by creating an agency called NUERA (Northern Utah Environmental Resource Agency), which seeks to expand control of trash flow along the Wasatch Front and limit competition from private sector providers, which may be in violation of federal anti-trust law.

In 1984, State Auditor Val Oveson called special districts the "hidden level of government", but they have only continued to proliferate. Nationwide, there are roughly 40,000 special service districts, which spend \$100 billion annually.

The five special service districts include the Weber County transfer station, Wasatch Integrated Waste Management District in Davis County, Trans-Jordan Landfill in south Salt Lake County, North Pointe Solid Waste Special Service District in northern Utah County, and the South Utah Valley Solid Waste District in south Utah County.

There are a number of private sector landfills located up and down the Wasatch Front that have hundreds of years of life left to collect trash. These privately owned disposal facilities are accepting municipal and commercial waste at the lowest competitive rates. In spite of this, NUERA is seeking to get its five special service districts to cough up \$5.7 million to purchase the Bayview landfill in the south end of Utah County, which is already owned and operated by the South Utah Valley Solid Waste District.

The board that governs NUERA passed a resolution allowing the entity to move forward

with the transaction. The other participating entities are certain to not be far behind.

In mid-July, North Pointe Solid Waste Special Service District held a board meeting where the Bayview purchase was discussed publicly for the first time with most mayors and managers of the involved cities not even aware of the proposed transaction. The district has set a meeting for the end of August to discuss this matter again.

These discussions for this purchase have not been done in the open. Many meetings about this purchase have been done in closed sessions of the boards of these districts. In the case of North Pointe, the landfill acquisition was discussed in a closed session, as it was determined to be a real estate purchase, but the purchase was placed on a board meeting agenda only days before the board was set to vote on the purchase. How can the government purchase of another government entity not be more open and transparent?

The question is, why the rush? Or better yet, why the purchase at all? Why are these five districts pursuing this purchase at this time and doing so behind closed doors?

In the greater Denver area, trash and landfills are nearly all privately owned and operated without government intervention or competition. Rates in Denver are much cheaper for landfill use than they are currently along the Wasatch Front. Clearly, the free market is doing its job in Denver, keeping prices at the correct level instead of government over inflating the market and raising prices on taxpayers.

Elected city and county officials and taxpayers in these districts should be concerned about this proposal and demand that their representatives on the special service district boards not act without approval of the full city or county council. The Legislature should act now to place financial decisions of special service districts back in the hands of elected bodies.

Originally published in the Salt Lake Tribune on July 29, 2016.

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political action committees or political issues committee for which such advocacy is their major purpose." In other words, non-profit organizations that engage in political advocacy on a limited, infrequent basis are exempt from prosecution.

- Exempted organizations in Utah, not just our organization as a plaintiff, will not be fined or criminally charged for failing to comply with the provisions of HB 43.
- By the end of 2016, the state's publications, websites and other information about disclosure requirements will be changed to not indicate in any way that exempted organizations are required to disclose the information required in HB 43.
- Past, current or future violations of HB 43

by our organization will not be prosecuted.

- The consent decree (settlement) is an enforceable contract that can be used by us or another organization in the future as may be necessary, should the state violate its agreement not to enforce the law.

This is a significant victory for freedom of speech in the state of Utah.

If the law had been left in place an individual's First Amendment right of free speech and association would have been limited and it would have created a chilling effect of Utah's non-profit and charitable organizations.

The Utah Taxpayers Association would like to thank the Center for Competitive Politics for its work in handling the legal process of this case and the Libertas Institute for signing on as a co-plaintiff in the lawsuit.

If you would like to read our opinion piece on this bill published in the Salt Lake Tribune, [please click here](#) for more information.

Expanding the Elimination of Sales Tax for Inputs in July's Special Session, and Other Items

July's Interim meetings of the state Legislature were shortened due to Gov. Gary Herbert calling a special session to address funding for a rodeo stadium to be built at the state fair park, a tax related issue for data centers and a number of cleanup items leftover from the 2016 General Session.

Rodeo stadium and special session legislation

In the special session, state lawmakers committed \$10 million to construct a rodeo stadium at the state's aging fair park. Additional money to construct the stadium will come from the LDS Church, which is contributing \$3 million for the project, Salt Lake City and Salt Lake County are also giving \$3 million in taxpayer funds to build the stadium. The stadium is expected to be completed by summer of 2017 to host the Days of '47 annual rodeo.

Other items passed include a bill that requires the legislature's Revenue and Taxation Interim Committee to review the various tax credits contained in state code. The legislature passed legislation to require these reviews in the 2016 General Session, however, due to a drafting error, the bill did not contain an enacting date. The bill passed in the special session, HB 3001, contained the enactment date. Lawmakers also passed legislation that dealt with unmanned aircrafts, also called drones, when flying near forest fires and ongoing efforts to reform the criminal justice system.

Data center and removing sales tax on inputs

State lawmakers also approved of SB 3002, which provides a sales tax exemption on business inputs for "enterprise data centers." The bill defined such data centers as a facility that is constructed after July 1, 2016, and total more than 150,000 square feet.

The bill in the media, inaccurately nicknamed the "Facebook bill" as it was drafted to attract the social media company to the state. However, any company with the qualifying requirements can benefit from the sales tax exemption, which is for all parts and machinery that last more than one year.

Your Taxpayers Association supported this legislation as it is a step towards eliminating the taxation of business inputs for the state.

Legislators considered a bill in the 2016 session, HB 180, which would have eliminated taxation on business inputs for manufacturers in the state. The bill overwhelmingly passed the House but stalled in the senate due to the fiscal note, \$58 million.

We will continue to push this legislation forward in the 2017 Session.

Farmland Assessment Act discussion

In its July committee meeting, the Revenue and Taxation Interim Committee discussed a number of issues dealing with the Farmland Assessment Act.

The Committee was given a brief review on the Act and discussed that some of the portions of the law need further examination. In particular lawmakers discussed the need for additional clarity in the definitions of "bona fide range improvement" and "change in use."

Bona fide range improvement deals with property that farmers are paid to not farm on.

Testimony in the meeting indicated that this area of the act needed additional clarification. Comments to the committee also stated the change in use and dual use of properties could also use additional examination.

Cache County Assessor, Kathleen Howell, explained that assessors are struggling to determine if certain farm properties should be able to continue with the designation of farmland property, and receive the tax benefits that come with that distinction, when improvements are done to the property for commercial purposes.

Examples of this could include a farm that puts in a parking lot, which it may use for an annual corn maze. Further examples have included properties that do farming but also allow for winter sports activities on the land. The assessors are in question if the property should keep its farmland distinction or if the property should then be treated as a commercial property. The Committee took no action on this topic. It is expected that issue will be brought up again prior to the 2017 General Session.

Appealing the County's Valuation of your Property

Utah's 29 counties recently mailed property tax notices to every Utah property owner. These notices indicate the parcel's market value, the taxable value, the property tax rate each taxing entity with jurisdiction over the parcel intends to levy, the anticipated total property tax due on the property, and any Truth-in-Taxation hearings being held in the area. If you believe the county assessor set your property higher than what it would sell for, state law allows you to appeal the valuation.

To begin the appeal process, property owners must notify the county's Board of Equalization that they intend to appeal their valuation. Each county accepts notification in different ways. For information on how to notify the Board of Equalization in your county, see instructions included with your mailed property tax notice or call your county assessor's office.

After notifying the county that you plan to appeal the valuation of your property, the next step is to gather comparable sales data justifying your belief that the county assessor overvalued your property.

If you purchased the property within the past year from an unrelated party, the closing or settlement statement for that sale suffices. If you choose to share it, that sales price will determine your property's fair market value.

You can also identify at least 3 properties similar in style, quality, size, age, location, land area, etc, and then determine the assessed value or sales price of those 3 properties. The least expensive way to obtain comparable sales data is to contact a real estate agent. Most agents will provide comparable sales data at no charge.

You will need to describe your property's

location, physical characteristics (number of bedrooms and bathrooms), size (acreage, finished and unfinished square feet in the home), age of home, etc. With that information, a real estate agent can usually identify several comparable sales within a few days.

Another option is to hire a professional to conduct an appraisal of your property. Other useful resources include The Appraisal Institute and the American Society of Appraisers. In Utah, a typical residential appraisal costs about \$350, and takes about one week to complete. If you recently refinanced your property, the bank appraisal can be used in your appeal.

Regardless of how you collect comparable sales data, it's important to collect documents supporting your comparable sales data. These documents may include listings for your comparable sales, county assessments for those properties, or the appraisal you paid for. Having these documents will streamline your appeal, and give you a better chance of winning.

Please be aware of one cautionary note: If your comparable sales data, including your property's closing documents, show the value of your property to be higher than what the assessment notice states, then the county may increase your assessed valuation even higher. You may be frustrated that your assessed valuation went up 30% in one year, but that frustration will fall on deaf ears if your property proves to be worth even more than what the county assessed.

Armed with the best comparable sales data, you will be well prepared to have your property value lowered in your appeals hearing with the Board of Equalization.

Association Releases its Annual Cost of City Government Report

Each year, as Truth in Taxation hearings occur during the summer, your Taxpayers Association wants you to be armed with data you need to show government officials just how much of your money they are spending.

Using data collected from the State Auditor, Census Bureau, and cities themselves, the Association creates the Cost of City Government report, which shows the relationship between city government revenue and citizen income in Utah's

50 largest cities. This data provides a snapshot of on average how much of each thousand dollars earned by a citizen is consumed by the city government in Utah.

Because government is not a private business, citizens are compelled to pay, and the cost of government may not be reflective of the true value of the services provided. Public services provided by Salt Lake City, for example, may not be offered in other cities across the state.

For example, some cities manage trash collection via a city owned and operated trash collection system, while other cities contract with private providers to handle this service. Privatizing city services can usually save taxpayers money and lead to higher quality service.

In the case of many services, the city government shouldn't be involved at all. For example, if there is a true market demand for a recreational gym, a private company will enter the market and the consumers can pay for their use of the facility without requiring the use of public funds.

Here's a brief glance on just some of the information covered in this year's Cost of City Government Report.

On average, Utah city governments take \$24 of each \$1,000 earned by residents in the city, representing 2.4% of taxpayer income. Utah cities also collect an average of \$564 in revenue from taxes and fees per city resident.

The city in Utah with the highest cost of government is South Salt Lake, which takes \$59.38 of each \$1,000 earned in the city (or 5.9%). South Salt Lake collects the second highest amount of revenue per capita at \$1,034.50. Salt Lake City receives \$1,335.04 in revenue per person, ranking highest in the state.

The lowest cost city out of Utah's 50 largest cities is Riverton, which takes \$9.14 of each \$1,000 earned in the city (or .9%). Riverton also ranks fiftieth in revenue collections from taxes and fees per person at \$256.71.

You can view the entire report to see how your city compares [by clicking here](#).

City Government Revenue from Taxes and Fees per \$1,000 of Citizen Income	
Best 5	
Riverton	\$9.14
Cottonwood Heights	\$10.81
Holladay	\$11.13
West Haven	\$12.11
Taylorsville	\$13.21
Worst 5	
South Salt Lake City	\$59.38
Salt Lake City	\$46.96
American Fork	\$41.53
Ogden	\$36.95
Vernal	\$36.23

This table displays the 5 best and 5 worst cities in the amount of city government revenue collected per \$1,000 of income.

Association Hires New Executive Assistant

Your Taxpayers Association is thrilled to announce our new Executive Assistant, Bren Robinson.

Bren is a native Utahn and graduated from the University of Utah with a degree in Mass Communications.

She was employed at Channel 4 News as an Associate Producer for a year before she decided to step into the nonprofit sector.

She has most recently been involved at the Foundation for Family Life, where she worked with State and County authorities to bring fatherhood education to incarcerated men in Utah.

She also volunteered with the Global Poverty Project, and spent time coordinating events for numerous non-profit organizations using celebrities and influencers to bring awareness to many

different charitable causes.

She stays involved in her local community, as she has been a member of the Board of Directors at the Southwest Valley Chamber of Commerce for three years and is serving as the 2016 Chairperson of the Board.

Bren is married and has two children. In her spare time she likes to travel with her family. She also loves to bake and enjoys reading.



Taxpayers Association Executive Assistant Bren Robinson

Association Accomplishments During July:

- ❖ Monitored and testified at the Business and Labor Interim Committee meeting for lowering taxes on business inputs.
- ❖ Attended meetings, including the Revenue and Taxation Interim Committee during the Legislature's July Interim and Special Session.
- ❖ Met with Central Utah Valley Water Conservancy District officials to help formulate cost-cutting measures for proposed tax increase.
- ❖ Reviewed Truth in Taxation proposals from across the state in preparation for hearings in August.
- ❖ Attended special service districts' board meetings to protect private businesses from government intervention.

In the News:

- ❖ Op-Ed on Special Service Districts
 - [Salt Lake Tribune](#)