



# THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

## Understanding Bonding Principles: Impacts and Uses

As we approach November and early voting begins, voters across the state have an opportunity to accept or reject proposals that would increase their property taxes in order to pay for different types of capital construction projects. This is done in the form of voter-approved bonding.

Your Taxpayers Association evaluates bond proposals across the state. On page 3 of this newsletter, you can see a brief overview of bond proposals that voters are being asked to approve.

First, let's take an in-depth look at bonding in Utah.

### What is a bond?

A bond is a loan taken out by a government entity to pay for capital projects. Traditionally, bonds are used to build capital projects such as schools, police and fire stations, highways, and other infrastructure.

The two most common types of bonds issued by Utah taxing entities are general obligation (GO), and revenue bonds.

The GO bond is by far the most common, and is able to secure the debt by using the credit of the property taxpayers within an entity, which results in a low interest rate.

Take the example of a ballot proposal in Salt Lake County to issue a \$90 million bond to pay for parks and recreation facilities across the county. If voters in Salt Lake County decide to approve the bond, the general obligation bond would be paid off through a temporary increase in property taxes across the county.

Revenue bonds use proceeds from the building to pay off the bond. For example, a university decides to use a revenue bond to construct a new building. The bond would then be paid off from student fees, proceeds from proprietary activities held at the building, etc.

However, revenue bonds are used more nefariously than this example. Revenue bonds can, and have been used to circumvent the will of the voters, after they have rejected a GO bond.

Here's how it works. Let's say voters reject a GO bond to build a new city hall.

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## My Corner: Are Increased County Appeals in Centrally Assessed Cases a Concern?

In 2015, the Utah Legislature passed a bill that sought to limit county intervention in property tax valuation appeals of centrally assessed properties. Senate Bill 165 stated that a county could not appeal a valuation

unless it reasonably believed that the property was worth 50% more than the value assessed by the state. It also gave counties 30 days, following a property owner's appeal to file a cross appeal.

Our hope was that SB 165 would end the practice of counties abusing centrally assessed taxpayers by constantly appealing their assessments from the state in order to gain extra revenue. Centrally assessed properties are those assessed by the State Tax Commission and not by the county assessor. These typically include mines, utilities, telecommunications and railroads. Unfortunately, the data is showing that rather than reducing county appeals, SB 165 has resulted in large number of appeals in 2016 than in recent memory.

According to the State Tax Commission, appeals filed by counties against centrally assessed properties have increased from nine appeals in 2015, to 58 in 2016. To add perspective on that number, that includes separate counties filing an appeal against the same taxpayer, for example Uintah and Carbon counties may both appeal the value of one company that would count as two appeals. When combining the counties who are appealing the value of an individual taxpayer the number is 32. That is nearly a 250% increase in appeals filed by counties.

Compare that to the number of appeals by centrally assessed taxpayers, which actually went down after SB 165 passed. There were a total of 50 taxpayer appeals in 2015. That number dropped to 42 in 2016.

According to the Utah Association of Counties (UAC), the majority of these appeals submitted by counties are cross appeals that have been filed 30 days after a taxpayer filed their own appeal of an assessment. Nearly 94% of the county appeals from this year fall into this category.

UAC put it this way in an article published on its website in August, "What does seem clear is that the provision in SB 165 that allows county government 30 days following a taxpayer appeal is allowing counties a more precision [sic] tool to identify property value appeal cases to participate in. Prior to SB 165, counties would often make the decision as to which cases to appeal based on the perceived possibility as to which taxpayers would appeal their values. This shot in the dark method of deciding which cases to participate in was the best way to participate in the discussion. Now counties can see the cards the taxpayers are playing before deciding whether to up the ante."

What we are seeing now is the reaction to the changes made by SB 165. While counties in the past have had a full understanding of the tax appeal process, the changes made by the legislation apparently have triggered the counties to file a large number of appeals. Not necessarily because they will fight the appeal made by the taxpayer but because they want to make sure they have a seat at the table during the appeals process.

However, that step is unnecessary as state law already allows counties to be a party in a case whenever a taxpayer appeal is initiated. The counties simply need to file a notice of appearance to a case and then they will be included in the process of the appeal.

This may also be a result of county commissions now being further informed when a county is pursuing an appeal. Prior to SB 165 county commissions or councils may not have been aware that the county was participating in an appeal, as the appeals against centrally assessed properties were handled outside of their purview. This has been corrected but it appears the elected officials may be taking a belt and suspenders approach to ensuring the county has a role in the appeals process and approving these appeals.

There is still much to learn from what the impacts will be of SB 165. We anticipate that the number of appeals in the future will go down as the counties become more familiar with the new system.

## Understanding Bonding Principles (continued)

(continued from page 1) The city council, acting as a little-known quasi-government agency called a local building authority (LBA), then opts to issue a revenue bond to construct the city hall anyway.

The LBA has no statutory authority to generate revenue from fees or property tax, the authority uses lease payments from the creating local entity (in this case, the city) to make payments on any revenue bonds. Simply put, the funds are taken from one city pocket and put into the other to pay off the revenue bond for the city hall.

Generally, revenue bonds have higher interest rates than voter-approved GO bonds, due to lacking backing of the full faith and credit of the taxable property within the entity.

### Who can issue a bond?

Cities, counties, special service districts, school districts all have the ability to propose and, upon approval, issue a bond.

These entities are specifically required to hold public meetings and provide notices and informational pamphlets to all the voters within their boundaries.

If a taxing entity has a need, the legislative body must approve it to be placed on the ballot, along with designating specific language to help voters understand the impact the bond may have.

### What can bonds be used for?

Contrary to popular belief, bonds can be used for much more than only erecting new buildings. Proceeds from a bond can fund any capital project, from roads to stadiums to schools to parks.

Interestingly, revenue from a voter-approved bond is sometimes used to pay for a project outside of the entity's jurisdiction. Voters in Park City are facing a \$25 million bond proposal this November that would do just that. The bond, if approved by taxpayers, would pay for a land acquisition that's outside of city boundaries, for the sake of preserving open space in land above the city.

### Is bonding a sound tax policy?

Not all debt is bad debt. Think of a bond as your mortgage. The mortgage allows a family to buy a home and pay for it over time. Bonding for capital

projects allows taxpayers do to the same thing for public infrastructure.

When building large capital projects, it is more beneficial to the taxpayer to allow bonding, rather than have a government stockpile property tax dollars for years, through a sinking fund, in order to pay for buildings up front. Those who bonded for the facilities pay for it over the life of the project.

### How do I understand the true impact of a bond?

Many times, in informational brochures or on the ballot, you may see language that looks something like this:

*'If the bonds are issued as planned, an annual property tax to pay debt service on the bonds will be required over a period of \_\_\_\_ years in the estimated amount of \$ \_\_\_\_ on a \$ \_\_\_\_ residence and in the estimated amount of \$ \_\_\_\_ on a business property having the same value.*

*'If there are other outstanding bonds, an otherwise scheduled tax decrease may not occur if these bonds are issued.'*

This seems pretty straightforward, however the true cost is actually buried in the second paragraph of that example ballot language.

The first paragraph addresses the increase in property taxes for the upcoming years, after the bond has been issued.

However, it does not take into account any bonds that have been paid off over the term of the newly-approved bond, therefore minimizing the true cost to taxpayers in ballot language.

Here's a real life example. The Jordan School District is asking voters to approve a \$245 million bond to pay for new schools in the area. In the required voter information pamphlet (and similarly drafted language for the ballot), the District has published the following:

*"Zions Bank has calculated the average homeowner will pay \$16.80 more per year than they currently pay for bond payments. This is based on a \$300,000 home, the average home value within Jordan School District. Within a few years, taxes for bond payments will go down and even dip below current levels. Zions Bank is advising us on bond financing and has provided this calculation.*

*"Without this bond, taxes for bond payments could*

*gradually go down by \$127.79."*

Notice how the true cost to taxpayers is found in the second paragraph, not the first. If the bond were to not be approved, taxpayers' property taxes in the district would decrease by nearly \$130.

Under current statute, Jordan School District is following the law established in Utah code. It requires that ballot language include 6 specific pieces of information. This information is outlined below:

- Total amount of the proposed bond,
- Maximum numbers of years the bond will impact taxpayers,
- The purpose of the bond,
- Average impact of the bond on a homeowner,

- Average impact of the bond on a business,
- If there are other bonds currently in place, the amount property taxes would decrease if the proposed bond were rejected by voters.

Your Taxpayers Association is working with members of the Legislature to pass legislation that would require any taxing entity wanting to issue bonds to place the true impact of a bond first and foremost in ballot language.

Below, you'll find a list of bond propositions that are being placed on the ballot in November across the state. The yellow dot represents a neutral position, as taken by the Taxpayers Association.

Taxing Entity	Amount	Purpose of the Bond	Association Position
Alpine School District	\$387 million	9 new buildings, 10 renovations, land acquisition	
Jordan School District	\$245 million	6 new schools buildings, 1 rebuild	
Salt Lake County	\$90 million	\$59 million for parks and rec centers, \$31 million for upgrades	
Lehi City	\$50 million	2 new parks, trail improvements, land acquisition, other upgrades	
Park City	\$25 million	Purchase of possible open space above Deer Valley	
Pleasant Grove	\$9.5 million	Construction for new public safety facilities	

## Op-Ed: The Cost of 'Cool' Shouldn't Come at the Expense of Sound Tax Policy

*Association Vice President Billy Hesterman wrote the following op-ed, which was published on September 12, 2016 in the Deseret News.*

### Deseret News **Opinion**

For the past decade, Utah has focused on creating policies to become the top business-friendly state in the nation, and it has paid off. Utah has seen low unemployment numbers and has outpaced other states in multiple factors of economic growth.

Our elected officials have made the state such

that businesses crave to be here because of the competitive taxation and regulation environment we enjoy. A strong economy is key to everything else succeeding in our state.

With that said, policymakers need to be careful in their aggressiveness when attempting to incentivize large corporations to Utah. While we do want large brand-name companies to call Utah home, we shouldn't lose sight of the need for consistent, reliable, sound tax policy.

We should set our sights on continuing to build a tax structure that is attractive to all taxpayers and not just those that elected officials and bureaucrats

arbitrarily deem worthy to receive large tax breaks.

Take the recent \$185 million tax package Facebook was offered by West Jordan to build a data center. Nearly \$94 million of that would have come directly at the expense of students in the Jordan School District. Being self-congratulatory or starry-eyed because Facebook might actually grace Utah with a large data center project is losing focus on sound tax policy to favor one major company.

However, this Facebook proposal is only one example of how easily elected officials can lose the vision of sound tax policy and act to favor one company over others.

After sinking \$39 million of taxpayer money into building a government-owned broadband network, the city of Provo realized maintaining the network wasn't financially feasible and it sold the network to Google *for a single dollar*.

In addition to paying Google for internet service, Provo citizens are still on the hook to pay back the \$39 million debt incurred to build the high-speed network, regardless of whether they use Google as their internet provider or not.

Other cities across the nation have given Google a number of tax breaks and free passes on regulations that other broadband providers have to follow, but now those cities are not receiving any of the benefit from giving such deals. Google's parent company, Alphabet, recently announced it was suspending expansion of its broadband service in certain cities, leaving those areas that were hoping to reap the benefits of the projects without anything to show for it.

Eleven other Utah cities have justified using taxpayer dollars in the name of economic

development to build the boondoggled UTOPIA network. Interesting that Facebook wasn't negotiating with a UTOPIA city. This is just another example of policymakers seeking the "cool" thing and losing sight of sound tax policy.

The list of these kinds of project excesses goes on and on. They occur at every level of government, whether cities, counties, special service districts or school districts.

According to data compiled by the Utah State Tax Commission, Utah local governments gave away more than \$160 million in tax incentives in 2015; nearly 56 percent, or \$89 million, of that came from property taxes that school districts otherwise would have collected. The remaining 44 percent, or \$71 million, came from property taxes of cities, counties and special service districts.

To be fair, tax incentives are part of the world we live in today. Many states have employed this practice to attract businesses to their states. Utah must continue this practice to compete, but it should be intelligent and precise when doling out taxpayer dollars under the argument of economic development.

Our local elected leaders need to be cautious about falling in love with a flashy name or be starry-eyed with a single company that wants to relocate here. The cost of cool sometimes is just too high, especially when it sets a precedent for future requests from other companies.

Instead, Utah's leaders should strive for creating a tax code that reduces the burden on all taxpayers and continues to stimulate Utah's strong economy. This will let businesses of all shapes and sizes already in Utah continue to grow the economy, resulting in more opportunities for our families and businesses.

## Tax Increment Financing, Education Equalization Tops Tax Issues During September Interim Meetings

Utah lawmakers are hoping to spend extra time examining the tax incentives that are used to attract businesses to the state in the near future.

In the wake of the failed Project Discus proposal, which would have spent \$240 million in 20 years to lure a Facebook data center to West Jordan, the state legislature's Interim Revenue and Taxation committee took time in its September meeting to

discuss what the state, and local cities and counties, have been utilizing as taxation tools to incent businesses to Utah.

Legislative staff gave a broad overview of tax increment financing programs that are currently in place within the state. Also, Salt Lake County Mayor shared Salt Lake County's guiding principles when it comes to tax incentives for

businesses. His principles stated that tax increment projects should be focused on encouraging economic development, fostering healthy communities and supporting regional development. However, due to time constraints that was the only discussion held on the incentives but further talks are planned for the future.

Tax increment projects freeze the current level at which a particular property is taxed for a period of years. Additional taxes that could have been collected on that property are then collected but an agreed upon percentage of those taxes are paid back to the property owner. Once the agreed time period is completed, the taxing entities can start collecting taxes on the property at the full value, which ideally should have increased from when the tax level was first frozen.

Your Taxpayers Association strongly opposes this method to incentivize businesses to the state, except in cases of blight or if the project will result in significant job creation.

This particular tool is only one method that is used to incentivize businesses to the state but it is one that deserves scrutiny as it does a number of things that taxpayers might not be aware of.

First, it is placing one business property owner over his competition. While some property owners may have been paying taxes in full for years, and will continue to do so, this gives the owner who receives the incentive an advantage at having a cheaper tax bill than others. This incentive also takes a hit on the amount of money a school district could receive. School Districts are the largest contributors, more than half, in these programs. The money the district could have collected is instead paid back to the beneficiary of the incentive, which leaves school districts without funding and also causes higher taxes on the rest of the property owners to make up for what was lost by not collecting from the business. These deals often are continued and last longer than the initial agreed-upon timeframe.

The Taxation and Revenue Interim committee had a number of questions about this type of incentive but due to other agenda items prior to this discussion many questions were left unanswered. Committee Chair Rep. Dan McCay announced that he would seek approval from the Legislative Management Committee to hold an additional meeting to discuss this topic on its own

in the future prior to the 2017 General Session.

Your Taxpayers Association has made it a high priority to support legislation that will make improvements to this type of incentive. The first effort that needs to be addressed is limiting the amount of money a school district can give up. No one can say that our cities, counties or special service districts are underfunded but Utah's schools should not be forced to give up so much to help attract businesses to the state. We would also like to see the legislature address how sales taxes are divided.

Currently the sales tax is divided up by sending 50% of the revenue to where the sell happened and the other half is distributed to local governments based on population. The formula should be improved to put a heavier weighting on population instead of point of sale so to help curb the use of tax increment financing to attract retail stores to a particular city.

A date for the additional meeting on business tax incentives has not yet scheduled.

In the Education Interim Committee, the move towards establishing a standard for all Utah students to receive the same amount of funding was discussed.

Following the \$75 million tax increase approved by the Legislature in 2015 and Senate Bill 38 in 2016, Sen. Lincoln Fillmore's bill hopes to continue the progress made to provide equalization for all students, regardless of school district.

Sen. Fillmore introduced a bill that would create an equal pupil unit, which would tie increases in the weighted pupil unit (WPU) to creating more equity for Utah students.

Here's how it works. Any new growth in the WPU would distribute  $\frac{1}{3}$  of that growth to equity for lower funded school districts, and the remaining  $\frac{2}{3}$  would be evenly distributed between all districts in Utah.

The bill would also take into consideration the local property taxes that residents within a school district's boundaries pay. The bill would provide an equal amount of state funding for the effort a school district collects in property taxes.

While the Association continues to evaluate this proposal, we have concerns that creating the opportunity for more state funding based on the local property tax burden would incentivize school districts to increase their levy.

## Op-Ed: If Water Price Reflected Its True Cost, Utahns Would Conserve More

*Your Taxpayers Association has long argued that the cost of water is far too subsidized for the end user to understand what their true usage price is.*

*The cost of Utah's water is hidden as it is heavily subsidized by property and sales taxes, which discourages conservation through lower water rates.*

*An op-ed published on September 19 in the Salt Lake Tribune by Randy T. Simmons, Ph.D., and Devin Stein of Strata concisely argues why Utahns must stop subsidizing water.*

### The Salt Lake Tribune

There's an old saying about water, often attributed to Mark Twain: "Whiskey's for drinking. Water's for fighting."

While reports of whether Twain actually said those words have been greatly exaggerated, the notion of water being a precious and valuable resource is not lost — especially in parts of the drought-stricken West.

For the first time in five years, heavy rainfall this spring made most drought observers optimistic that Utah would have enough water to last all year. In fact, back in June, the U.S. Drought Monitor ended all drought designations in the state. But a hot and especially dry summer has brought parts of the state back to the brink of drought. Utah's constant fear of not having enough water would be unnecessary, however, if we reformed state water institutions to manage our water better and more efficiently.

A basic principle of economics is the law of supply and demand. If a resource such as water is in high demand relative to the amount available, people will pay more for it. Likewise, if the supply of water is low, higher prices should reflect that, encouraging people to use less water to run their sprinklers and wash their cars.

One major problem, however, is the price of water in Utah has been kept artificially low because water is subsidized through property taxes in many parts of the state.

Municipal water prices in Utah are among the lowest in the nation, despite the fact that Utah is the second driest state. Both the state of Utah and the federal government invest heavily in large water delivery infrastructure, from the Central Utah Project to the proposed Lake Powell pipeline, to ensure the

state has enough water to meet its needs. But most cities and water conservancy districts charge water users just enough to meet the repayment obligations for these costly water projects. Cities and water conservancy districts do not pay much, if anything, for water, and thus only need to charge for the costs of financing the infrastructure needed to deliver the water to users.

Property taxes make finance repayment plans more consistent and reliable, but also lower the price we pay for each gallon of water. Artificially low prices hide the actual cost of the water, making it appear less expensive than it actually is. If water prices rose to reflect water's actual value, Utahns would conserve more water.

To prevent water from becoming too expensive for low-income families, tiered price structures can raise water rates for excess use while keeping rates inexpensive for basic human uses. Many Utah cities already have tiered price structures, but a recent audit suggests that most do not charge enough for higher uses to adequately encourage conservation. For example, North Ogden charges \$1.62 per thousand gallons of water, but \$2.16 per thousand gallons if a water user exceeds 20 thousand gallons. A \$0.54 per thousand gallon increase is hardly enough incentive for someone to dramatically change their water consumption habits.

Utah needs to reform water law to encourage conservation. Irrigation water, for example, makes up the vast majority of water used in the state, but agricultural water users have no incentive to conserve because of "use it or lose it" provisions in the Utah Code that threaten to take their water rights if they do not use every last drop. Many farmers still use inefficient irrigation techniques because more efficient irrigation systems that use less water may force farmers to give up their unused water rights without being compensated.

Water is traded less often in Utah than in most other western states. Water transfers and leases in Utah are subject to lengthy application processes by the Division of Water Rights. If water transfers and leases were not subject to so much regulation, farmers could lease water rights to other water users, including municipalities, during dry years.

Because the price paid for municipal water is much more than that paid by irrigators, sometimes farmers could make more money from leasing their water to a city in need than they could from watering their crops.

If domestic water users are willing to pay the full

costs of watering their lawns, they should be allowed to. Instead, water remains artificially cheap, despite the fact we live in a desert. If we reformed the system of water trading in Utah, there might just be enough water to go around.

You can access the op-ed by [clicking here](#).

## Constitutional Amendment C: Leased Property Exemptions

Utah voters have the opportunity to vote on several constitutional amendments this November, including Constitutional Amendment C.

Spurred by Senate Bill 68 and Senate Joint Resolution in the 2016 General Session, Constitutional Amendment C asks voters if they would be willing to clarify a section of tax code that allows for a property tax exemption for property leased to a state agency.

Currently, the Constitution provides a property tax exemption for State owned property. When the State leases tangible property (truck, server, office equipment for example) from a private owner, there is no property tax exemption. The private owner receives a property tax bill from the county and sends it to the leasing governmental entity for payment. This action shifts the burden of the property tax between governmental entities and costs the State and taxpayers more money.

Transparency is clouded and receiving entities benefit without full accountability to the taxpayers and voters for the extra shared revenue they received.

For example, under current provisions, if a school district does a long-term lease of a copy machine,

they are required to pay the annual property tax on that equipment. That tax payment is made to the county. The county then divides the school district's paid tax according to the apportionment formula. The county then sends the tax paid by the school district out to the other taxing entities in the county such as the city, county and special service districts. If a school district pays \$2,000, for example, of taxes they may get \$700 back and the rest is divvied up to the other taxing entities that did not impose the tax.

Constitutional Amendment C would expand the property tax exemption to include leased tangible properties with life expectancies of at least 3 years. This would treat government leased property the same as all government owned property for the duration of the lease. This also prevents the tax revenue from the leased property from being shared with outside taxing entities that did not impose the tax.

Your Taxpayers Association worked closely with members of the Legislature on this bill during the 2016 Session, and encourages voters to approve Constitutional Amendment C this November.

### Association Accomplishments During September:

- ❖ Attended the Utah Legislature's Tax and Revenue Interim Committee
- ❖ Held a meeting of the Association's Board of Directors
- ❖ Met with the Alpine School District regarding their election bond
- ❖ Met with the Lt. Governor's office regarding upcoming legislation
- ❖ Spoke on Salt Lake County Election Bond, Prop A

#### In the News:

- ❖ "Project Discus"
  - [The Cost of Cool – Deseret News](#)
  - [Protect School Property Taxes from Business Incentive Deals – Salt Lake Tribune](#)
  - [Fallout of a Failed Deal – Salt Lake Tribune](#)
- ❖ Jordan School District Bond
  - [Utah Taxpayers Association Won't Oppose Bond – Salt Lake Tribune](#)
- ❖ Salt Lake County Parks and Recreation Bond
  - [Salt Lake County Bond Prop A - Deseret News](#)