



Utah Taxpayers Association letter

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October 19, 2009

To Whom It May Concern:

The Utah Taxpayers Association has become aware of questions regarding the way cities transfer funds from enterprise funds to their General Fund or other enterprise funds. The Taxpayers Association has studied these issues, and believes that the public notice requirements that apply when transfers are part of the original budget process, also apply when a city amends its budget midyear. Otherwise, budget amendments could make a mockery of the notification process.

Two sections of the Uniform Fiscal Procedures Act govern transfers to or from a municipal enterprise fund. Section 10-6-135(3)(d)(i) requires that cities mail very specific notifications to every ratepayer when a transfer from an enterprise fund is anticipated in the city's tentative budget. The notice requirements in Section 10-6-135 ensure that ratepayers have the opportunity to voice support or opposition to proposed transfers. Section 10-6-136 allows cities to increase allocations to any city fund, including an enterprise fund, upon five days notice to the members of the City Council.

In training municipal leaders and staff to comply with these code sections, the State Auditors Office has repeatedly and appropriately emphasized that any amendments to the tentative budget must meet the notification requirements outlined in Section 10-6-135 and Section 10-6-136.

The Utah Taxpayers Association agrees with the State Auditors Office's application of these sections of code. Any amendment to a municipal budget constitutes another tentative budget, so transfers proposed in amendments to a city's tentative budget must meet the notification requirements in both sections of the statute.

For example, in amending its FY 2008-2009 budget, Lehi City transferred \$4.25 million from its electric utility fund to a number of other funds, including the General Fund. Relying on Section 10-6-136, they did not provide the notification requirements in Section 10-6-135.

They should have provided this notification to ratepayers. Whether the City Council adopts the first tentative budget," or amends that tentative budget, the Legislature's clear intent is to require full disclosure and notification. No city should be able to skirt these disclosure and notification requirements simply by making the transfers while amending the tentative budget. That is how the State Auditors Office trains municipal officials, and that is the clear intent of the statute. To the extent that there is any ambiguity about how much notification Utah law requires, the Legislature should consider appropriate legislation.

Sincerely,

M. Royce Van Tassell

Vice President