



The Utah Taxpayer

A Publication of the Utah Taxpayers Association

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March 2009 Articles

[Supreme Court Upholds Paycheck Protection](#)

[My Corner – Stopping the Tax and Spend Lobby](#)

[Where Do Utah Public Schools Get Their Money? Does this lead to funding inequities?](#)

[Utah Legislature to Congress: NO CARD CHECK](#)

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Supreme Court Upholds Paycheck Protection

On February 24th 2009, the Supreme Court settled one of the most controversial issues in Utah politics when they upheld paycheck protection. Taxpayers should not subsidize political donations.

In 2001 then-Rep. Chad Bennion, Sen. Howard Stephenson and your Utah Taxpayers Association completed a 10-year effort when they guided HB 179, the Voluntary Contributions Act (VCA), which enacted paycheck protection, through the Legislature.

The VCA prohibits public employee unions from using government payroll systems to collect political donations. During the first year the VCA took effect, union political donations plummeted. UEA political donations dropped 75%, while the UPEA's political donations went to zero.

Unsurprisingly, various unions immediately filed suit, and after a year of VCA enforcement, the courts suspended the VCA, pending the outcome of the litigation. During the same time period, Idaho and Ohio passed their own versions of the VCA, and unions in those states also filed suit.

Although the 3 states' VCA laws are functionally indistinguishable, it was hardly surprising with different lawsuits in the 6th, 9th and 10th Circuit Courts that the courts would split. The 9th and 10th Circuits ruled the Idaho and Utah VCAs were unconstitutional, while the 6th Circuit upheld Ohio's. Your Taxpayers Association petitioned the United States Supreme Court to settle the issue by deciding the Idaho case.

Recognizing that the Supreme Court's decision would dictate the outcome of the Utah case, the 10th Circuit "abated" its ruling, pending the Supreme Court's ruling in the Idaho case. If the Supreme Court ruled the Idaho VCA constitutional, the Utah VCA would also be constitutional, and would not need to pass the Legislature again.

As reported in previous editions of our newsletter, the Taxpayers Association submitted a brief to the Supreme Court urging them to uphold the Idaho law, and implicitly the Utah law as well.

As the Supreme Court addressed the question, the legal issue is really pretty simple. Both sides of the case agreed that a state does not have to subsidize the collection of political donations. The case focused solely on whether the Constitution requires local governments, like school districts, to subsidize the collection of political donations.

Following the argument the Taxpayers Association made in our amicus brief, Justice Ginsburg wrote, "In the context here involved, the Constitution compels no distinction between state and local governmental entities."

As other states adopt their own VCAs, no doubt other unions will pursue additional litigation. Given the Supreme Court's decision last week, however, those challenges are not likely to succeed. Union opponents presented their best arguments in the Idaho case, yet a broad coalition of liberal and conservative of Justices coalesced around sound constitutional principle. In the Court's words,

Quote of the Month #1
"SB208 would deliver a significant economic blow to newspapers, which charge governments for notices of public meetings, elections, truth-in-taxation hearings and other actions that the advertisement law requires be widely announced.

Salt Lake Tribune Editorial disclosing the real reason they don't want public notices put online.

Source: SLTribune 2/20/09

Mark Your Calendars For May 8th AND June 12th For The **31st ANNUAL TAXES NOW CONFERENCE & TEED OFF ON TAXES GOLF TOURNAMENT**

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"A legislature's decision not to subsidize a fundamental right does not infringe the right."

As an Association, we are grateful the Supreme Court upheld the constitutionality of Voluntary Contribution Acts. We have already submitted a letter to the 10th Circuit Court of Appeals urging them to follow the Supreme Court's decision, and formally reinstate Utah's VCA. Utah Attorney General Mark Shurtleff has also already submitted a letter to the 10th Circuit. Utah's VCA should be enforced within a matter of weeks. Taxpayers should not subsidize the collection of political contributions for any organization, union or not.



My Corner - by Royce Van Tassell

Stopping the tax and spend lobby

(Due to Howard Stephenson's service in the Utah Legislature this month's My Corner comes from association Vice President Royce Van Tassell)

The Legislature's 2009 General Session is winding down, and the tax and spend lobby is scouring every nook and cranny for ways to take money out of taxpayers' pockets. A host of tax increases are poking their heads out. From efforts to kill Utahns' right to a secret ballot to boutique sales tax increases, and from gas tax hikes to flouting the will of the people, the tax and spend lobby's appetite for bad policy seems insatiable.

Protecting Utahns' right to a secret ballot

As we've discussed in previous editions of the Utah Taxpayer, Big Labor's push to steal Utahns' right to a secret ballot is still moving forward in Washington, but your Taxpayers Association is working to protect it. Rep.

Wimmer's **HJR 8** is a proposed amendment to Utah's Constitution that would guarantee the right to a secret ballot.

Despite opposition from the AFL-CIO and the UEA, Governor Jon Huntsman and Lt. Governor Gary Herbert are both supportive, and the House of Representatives passed it by the requisite 2/3 margin. We are confident of passing it in the Senate by the same 2/3 margin.

Hiding tax increases

The tax and spend lobby loves boutique sales taxes because sales taxes aren't paid in big lump sums like income or property taxes. They trot out grandiose plans for a nice-to-have "necessity," then tell the people it'll just cost them a nickel here, a dime there.

If these projects really were that important, these projects would win support in the regular budget

process, and not need earmarked boutique projects. However, the regular budget process means using property taxes, which involves more transparency than these "necessities" can withstand. And so they go after boutique taxes.

Two of these boutique taxes have some momentum this year. Rep. Kory Holdaway wants to allow cities in Salt Lake county and Salt Lake county to simultaneously impose ZAP taxes (**HB 439**). Despite vigorous opposition from your Utah Taxpayers Association, the House approved this bill last week. The Senate has not yet taken the bill up, though its prospects there are much dimmer.

Over the weekend Sen. Greg Bell came out with **SB 248**, which would allow Salt Lake City and St. George to impose an additional .7% on their sales tax. Nominally, the revenue from this tax would just pay for transit or significant regional highway projects, but the clear language gives them much

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2009 Key Tax Related Bills

Number	Title	Bill Sponsor	UTA Position
PRIORITY BILLS			
HB 23, 1st Sub	Certified Tax Rate Amendments	Hunsaker	Support
HB439	ZAP Tax amendments	Holdaway	Oppose
HB 219	Tobacco Tax Increase	Ray	Oppose
HB 293	State school board election amendments	Menlove	Oppose
HJR 8	Constitutional Amendment regarding secret ballot	Wimmer	Support
1SB 18	Utah Transparency Advisory Board Amendments	Niederhauser	Support
SB 38, 2nd Sub	Severance tax amendments	Valentine	Oppose
SB248	Resort Community Tax	Bell	Oppose

To see a full list of bills please go to www.utahtaxpayers.org

Details of Major Tax Cuts

ARRA made several changes to the federal tax code. The following is a summary of the major changes based on information from the House Ways and Means Committee, the Congressional Budget Office, the Joint Committee on Taxation and Congressional Quarterly.

Making Work Pay (MWP) Tax Credit

MWP will be available for 2009 and 2010 and will be equal to 6.2% of earned income with amounts capped at \$400 for individuals and \$800 for married filing jointly. Credit will be reduced by 2% of income that exceeds \$75,000 for individuals and \$150,000 for married couples who file jointly. Recipients of assistance from certain federal poverty programs will not lose eligibility or have their benefits reduced due to MWP credits or refunds.

Earned Income Tax Credit (EITC)

Prior to ARRA, working families with three or more children were eligible for an EITC of 40% for the family's first \$12,570 of income. Under ARRA, these families will be eligible for a credit equal to 45% of the first \$12,570 for a maximum credit of \$5,656. The phase-down threshold will be increased by \$1,880.

Child Tax Credit (CTC)

CTC refundability was increased to 15% of earned income above \$3,000 for 2009 and 2010. Prior to ARRA, refundability was 15% of earned income above \$8,500 in 2008 and \$12,550 in 2009.

First-Time Homebuyer

ARRA waives repayment of the homebuyer credit and increases the amount from \$7,500 to \$8,000. The deduction phases out starting at \$75,000 for individuals and \$150,000 for married filing jointly. The deduction completely phases out at \$95,000 and \$170,000.

Exclusion of \$2,400 of Unemployment Insurance Benefits

Under current law, unemployment insurance benefits, which on average are \$300 per month, are taxable. Under ARRA, the first \$2,400 will be exempt from taxes for 2009.

State and Local Sales Tax Deduction for Car/Trucks Purchase

In 2009, taxpayers will be able to deduct state/local sales and excise taxes on purchases (up to \$49,500) of cars, light trucks, motorcycles, and recreational vehicles. This credit phases out between \$125,000 to \$135,000 for individuals and between \$250,000 to \$260,000 for married filing jointly. The deduction is above the line, meaning that taxpayers who do not itemize can claim this exemption.

American Opportunity Education Tax Credit

This provision provides taxpayers with a tax credit based on 100% of the first \$2,000 of tuition and related expenses and 25% of the next \$2,000 for a maximum credit of \$2,500. Forty percent of the credit is refundable. For married filing jointly, the credit phase out begins at \$160,000 and ends at \$180,000. For individuals, the phase out begins at \$80,000 and ends at \$90,000.

Increased Exemption for Individual Alternative Minimum Tax

The AMT exemption was increased to \$46,700 for individuals and \$70,950 and married filing jointly.

I have posted additional information about ARRA at chaffetz.house.gov

Utah Legislature to Congress: NO CARD CHECK

As momentum in Washington, D.C. builds to take away Americans' right to a secret ballot, the Utah House of Representatives has sent an unambiguous message. The secret ballot is a fundamental right, one so important that the Utah Constitution should explicitly protect it.

If Congress passes Big Labor's artfully-named "Employee Free Choice Act" (EFCA, or "card check"), employees would lose the right to cast a secret ballot in deciding whether to unionize. In unionizing a workplace, EFCA would authorize the union—not the employee—to choose one of two voting methods: the traditional secret ballot vote, or collecting employees' public signatures. Given the opportunity for intimidation public votes create, no union would ever choose the secret ballot vote.

To prevent Utahns' right to vote by secret ballot, Rep. Carl Wimmer has proposed an amendment to the Utah Constitution. Under HJR 8, elections for individual and employee representation must be by secret ballot.

The House has already passed this amendment by an overwhelming 53-22 margin. If the Senate joins the House in passing HJR 8 by a 2/3 majority, in the 2010 general election, the Utah public will vote and decide whether the right to a secret ballot should be constitutionally protected.

Some critics have wondered whether EFCA would trump Utah's constitution, since EFCA is a federal law. However, EFCA merely permits card check; just because federal law permits "card check," Utah does not have to. Moreover, many Utah workers will not be covered by EFCA, so Utah's Constitution will control.

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THE
Utah Taxpayer
since 1922

THE UTAH TAXPAYERS ASSOCIATION
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HJR8's overwhelming support should send a clear message to Congress and the Obama Administration that the secret ballot is a basic tenet of American democracy. Utah will not allow Big Labor and their Democrat allies in Congress to eliminate this basic democratic right. And since Utah is just the first of many states pursuing similar amendments to state constitutions, Utah's success bodes well for all other states that are also determined to protect the right to a secret ballot from encroachment by D.C. politicians.

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