

TAXPAYER-FUNDED LEAGUE LOBBIES AGAINST TAXPAYER INTERESTS

JANUARY 18, 2022

JON RICHES

DIRECTOR OF NATIONAL LITIGATION
THE GOLDWATER INSTITUTE

JENNA BENTLEY

DIRECTOR OF GOVERNMENT AFFAIRS
THE GOLDWATER INSTITUTE



GOLDWATER INSTITUTE

INTRODUCTION

Tax dollars should be used to advance the public's business, not to amplify the voice of special interest lobbyists. That is particularly true when tax dollars are used to advocate against taxpayer interests. At the same time, public officials and public entities should remain accountable and transparent to the public about their activities. Yet some local governments attempt to conceal actions from the public by belonging to purportedly private organizations that can do their bidding, such as the League of Arizona Cities and Towns. It is time to protect taxpayers by prohibiting taxpayer-funded lobbying activities while also increasing transparency and accountability when local governments advocate at the legislature through membership organizations.

The League defines itself as "a voluntary membership organization of the incorporated municipalities in Arizona, [which] exists to provide vital services and tools to all its members, focusing principally on representing the interests of cities and towns before the legislature."¹ The League does indeed engage in extensive "representation" at the legislature. Often, however, the League is representing the interests of public officials and government bureaucrats rather than those of the taxpaying public.

The League uses taxpayer dollars to help fund its political efforts, frequently lobbying in favor of or against proposed legislation at the Arizona Legislature. While the League supports and opposes bills sponsored by members of both political parties, its agenda is decidedly anti-freedom, pro-government, and partisan.² During the regular legislative session of 2021, the League opposed 44 bills introduced by Republicans but opposed no Democratic-sponsored legislation.

The League also appears to be staunchly opposed to the most significant pro-liberty and small government reforms. In 2021, legislators introduced a bill to help Arizonans struggling to recover from the devastating economic impacts of the COVID-19 pandemic. The bill lowered every income tax bracket to a single flat rate so all Arizonans, including the low-income population and small businesses, could keep more of their hard-earned income and stave off a looming crippling tax increase passed under the guise of funding for Arizona's teachers.³ Although the flat-tax package eventually passed, the League's taxpayer-funded lobbyists vehemently opposed it during committee hearings.⁴

The League's extensive engagement in politics is troubling given that taxpayers of smaller and rural municipalities often pay more in League dues than do residents of large municipalities. What's more, despite its public membership, public funding, and extensive lobbying activities, the League is not subject to the same transparency and accountability measures as are other public bodies and publicly funded entities.



TAXPAYER-FUNDED LOBBYISTS

The League is funded from membership dues collected from the taxpayers of Arizona's cities and towns.⁵ Arizona taxpayers may be surprised to learn their tax dollars go toward funding the lobbying efforts of an organization that advances many policies that increase the size and scope of government, and that may not align with their own political preferences and values. In other words, taxpayers of cities and towns that have elected limited-government representatives nevertheless fund League activity aimed at increasing government oversight and curtailing individual freedoms. For example, the town of Gilbert uses tax dollars to fund its membership in the League; yet in the 2021 legislative session alone, the League opposed five bills introduced by the people elected to represent the residents of Gilbert in the Arizona House and Senate (Legislative District 12).⁶

The League's taxpayer-funded electioneering disproportionately affects residents of smaller cities. Member cities or towns pay a base fee of \$4,300 per year in League dues plus an additional per capita rate. But dues are capped for the largest cities, meaning that Arizona's largest cities end up paying a significantly lower per capita rate for League membership than do smaller cities and towns. In 2020, for instance, Prescott taxpayers paid seven times more than Phoenix taxpayers in membership dues to the League. And this is not uncommon. Peoria's population is more than 29 times the size of Snowflake's, yet Snowflake residents pay more to the League in annual dues.⁷

Residents of small cities and towns should not bear a disproportionate burden in financing the League and its activities. After all, larger cities receive the same services from the League that smaller cities do. Local governments should not be permitted to authorize dues payments to the League in an amount greater than that paid per resident in the most populous city that belongs to the League.



A PUBLICLY FUNDED “PRIVATE ORGANIZATION”

Although purportedly a nonprofit organization,⁸ the League has many characteristics of a public entity. It is comprised exclusively of local governments, and it exists to represent the interests of its government members.⁹ The League’s work mainly consists of lobbying the state legislature on behalf of local public bodies. In other words, the League represents taxpayers funding one level of government to lobby another level of government.

League employees themselves are technically private employees, but in many ways they enjoy the benefits of government employment. For example, retired League employees receive pensions from the taxpayer-funded Arizona State Retirement System (ASRS).¹⁰ In fact, the League currently has 16 active employees in the ASRS retirement plan and spent nearly \$170,000 in employer pension contributions in 2021 alone.¹¹ In other words, the League spends hundreds of thousands of taxpayer dollars paying for government pensions for its supposed private employees. Or put differently, taxpayers in Prescott and Snowflake are paying to fund the public retirement of League employees hired to lobby against their interests.

Given that the League’s membership is comprised solely of public bodies and its employees receive government perks, one would expect the League to be subject to the same transparency and accountability measures that apply to other public entities.

It is not. For instance, Arizona’s Public Records Act (APRA) requires that government entities make public information available to the public upon request.¹² Because the League is funded with public money and presumably transacts public business on behalf of its public body members, it should be subject to APRA just like any other governmental body or taxpayer-supported entity. Yet it is unclear whether APRA applies to the League and its employees. The League should not receive public funding and function as an extension of the local public bodies without sufficient public oversight. An entity composed of public bodies and funded by taxpayers should be subject to the same transparency measures as any other public body or publicly funded entity.



SOLUTIONS

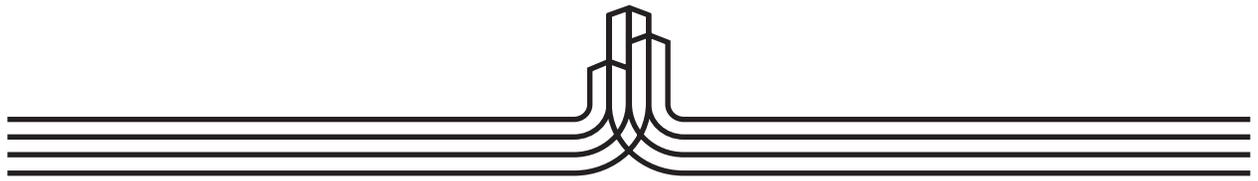
The Arizona Legislature can protect municipal taxpayers from the abuses that occur when local governments use taxpayer resources to lobby state government and blur the line between public and private activities.

First, taxpayers should not be forced to fund lobbying activities—especially when their own money is used to promote policies they disagree with or that go against their interests. In 2017, the Arizona Legislature recognized this principle and banned the use of taxpayer funds for lobbyists representing the state government. The same principle should apply to local governments and the League. The Legislature should extend its 2017 protections to municipal taxpayers and prohibit the use of taxpayer funds for local lobbying activities, including those of the League. Cities and towns could still voluntarily join together to discuss issues of mutual concern—but do so without expending taxpayer resources on lobbying.

Additionally, more populous Arizona cities ought not be able to use tax dollars to dilute the policy interests of Arizonans who live in small towns or rural areas. The Arizona Legislature should assure that all taxpayers are treated equally when it comes to funding municipal membership organizations like the League. Legislation should require that all residents pay no more than the same per capita rate in League dues as the most populous member city. This would ensure fair and equitable treatment of taxpayers in rural districts and rebalance priorities to ensure that rural and small-town voices are not diluted.

Finally, local governments should not be able to keep their citizens in the dark about how their money is being spent simply by giving it to unaccountable organizations. The Arizona Legislature can ensure transparency for all public bodies and taxpayer-financed entities by expressly including entities whose membership is composed primarily of public bodies within APRA. This would clarify that when public bodies and public employees are using taxpayer resources on the public's business, taxpayers will be aware of those activities.





MODEL LEGISLATION

G

MODEL LEGISLATION

LOCAL LOBBYING PROHIBITION ACT

41-1234. Publicly funded contract lobbyists; prohibition; definition

A. Notwithstanding any other law, a state agency, office, department, board or commission and any person acting on behalf of a state agency, office, department, board or commission, OR ANY COUNTY, CITY, TOWN, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION OF THE STATE AND ANY PERSON ACTING ON BEHALF OF ANY COUNTY, CITY, TOWN, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION OF THE STATE AND shall not:

1. Enter into a contract or other agreement with a person or entity for lobbying services.
2. Spend monies for any person or entity to lobby on behalf of that agency, office, department, board, or commission OR COUNTY, CITY, TOWN, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION OF THE STATE unless that person is a state employee OR ANY EMPLOYEE OF A COUNTY, CITY, TOWN OR SCHOOL DISTRICT. IF A COUNTY, CITY, TOWN, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION OF THE STATE IS PART OF A MEMBERSHIP ORGANIZATION WHERE THE MAJORITY OF THE MEMBERSHIP OF THE ORGANIZATION IS COMPOSED OF POLITICAL SUBDIVISIONS OR OTHER PUBLIC BODIES, NO PORTION OF MEMBERSHIP DUES MAY BE AUTHORIZED FOR LOBBYING ACTIVITIES.

B. This section does not apply to any state agency, office, department, board or commission that is either:

1. Headed by one or more elected officials.
2. Exempt from title 41, chapter 23 for the purposes of contracts for professional lobbyists.

C. This section does not apply to the employment relationship of a lobbyist who is a state employee directly employed by a state governmental unit for whom the employee acts as a lobbyist or lobbying is part of the employee's job description.

D. For the purposes of this section, "state employee" has the same meaning prescribed in section 41-1231.



MODEL LEGISLATION

TAXPAYER-FUNDED DUES RESPONSIBILITY ACT

- A. A CITY OR TOWN SHALL NOT AUTHORIZE THE PAYMENT OF DUES TO A MEMBERSHIP ORGANIZATION WHOSE PAID MEMBERSHIP IS COMPOSED, BY MAJORITY, OF CITIES OR TOWNS IN AN AMOUNT THAT IS GREATER THAN THE FOLLOWING:
- a. THE CITY OR TOWN'S TOTAL POPULATION MULTIPLIED BY THE PER CAPITA MEMBERSHIP AMOUNT PAID BY THE MOST POPULOUS CITY OR TOWN THAT IS ALSO A MEMBER OF THE MEMBERSHIP ORGANIZATION.
- B. FOR PURPOSES OF THIS SECTION, "PER CAPITA MEMBERSHIP AMOUNT" MEANS THE TOTAL MEMBERSHIP DUES PAID TO THE ORGANIZATION BY THE CITY, TOWN OR POLITICAL SUBDIVISION DIVIDED BY ITS TOTAL POPULATION.



MODEL LEGISLATION

**TRANSPARENCY FOR GOVERNMENT
MEMBERSHIP ORGANIZATIONS**

39-121.01. Definitions; maintenance of records; copies, printouts or photographs of public records; examination by mail; index

A. In this article, unless the context otherwise requires:

1. "Officer" means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.
2. "Public body" means this state, any county, city, town, school district, political subdivision or tax-supported district in this state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from this state or any political subdivision of this state, or expending monies provided by this state or any political subdivision of this state. PUBLIC BODY INCLUDES ANY MEMBERSHIP ORGANIZATION WHOSE PAID MEMBERSHIP IS COMPOSED OF A MAJORITY OF COUNTIES, CITIES OR TOWNS.



ENDNOTES

1. "About the League," League of Arizona Cities and Towns, accessed December 26, 2021, <https://www.azleague.org/27/About-the-League>.
2. The League provides a public list of bills that it supports and opposes at the Arizona Legislature. See "Legislative Bill Monitoring," League of Arizona Cities and Towns, December 26, 2021, <https://azcapitolreports.com/webreport.cfm?webreport=26497&listid=71653&print=true>.
3. Matt Beienburg and Jim Rounds, "Good for Special Interests and Unions, Bad for Arizona: The Economic Impacts of Proposition 208," Goldwater Institute policy report, September 15, 2020, <https://goldwaterinstitute.org/wp-content/uploads/2020/09/economic-impacts-invest-in-ed-9-15-2020-FINAL.pdf>; "H. B. 2900, State of Arizona House of Representatives First Regular Session 2021," Arizona State Legislature, <https://www.azleg.gov/legtext/55leg/1R/bills/HB2900H.pdf>.
4. "H. B. 2895, General Appropriations Act 2021-2022" and "S. B. 1825, Higher Education, Budget Reconciliation 2021-2022," Arizona State Legislature, May 25, 2021, videos of legislative action, <https://www.azleg.gov/videoplayer/?eventID=2021051047> and <https://www.azleg.gov/videoplayer/?eventID=2021051050>.
5. Charter of The League of Arizona Cities and Towns, August 28, 2017, <http://www.azleague.org/ArchiveCenter/ViewFile/Item/340>.
6. H. B. 2810, H. B. 2570, S. C. R. 1040, S. B. 1409, and S. B. 1406, State of Arizona House of Representatives and State of Arizona Senate Fifty-fifth Legislature First Regular Session 2021, <https://www.azleg.gov/legtext/55leg/1R/laws/0327.pdf>, <https://www.azleg.gov/legtext/55leg/1R/laws/0367.pdf>, <https://www.azleg.gov/legtext/55leg/1R/bills/SCR1040P.pdf>, <https://www.azleg.gov/legtext/55leg/1R/laws/0358.pdf>, and <https://www.azleg.gov/legtext/55leg/1R/bills/SB1406S.pdf>. 2021's House Bill 2810, which instituted a criminal justice reform championed by Presidents Barack Obama and Donald Trump, passed in Arizona with overwhelming bipartisan support. However, it was opposed by the League of Arizona Cities and Towns. <https://www.azleg.gov/legtext/55leg/1R/laws/0327.pdf>
7. Based on 2018 Population Census.
8. See City Council of the City of Scottsdale, "City Council Report," August 28, 2019, <https://www.scottsdaleaz.gov/Asset78932.aspx>.
9. "Local Government Directory," Arizona League of Cities and Towns, accessed December 26, 2021, <http://lgd.azleague.org>.
10. Arizona State Retirement System, 2021, <https://www.azasrs.gov/content/list-employers>.
11. Arizona State Retirement System, "Fiscal Year 2021 Employer Contributions," Response to Goldwater Institute Arizona Public Records Act Request, dated August 19, 2021, available at the Goldwater Institute.
12. "Arizona Revised Statutes: Title 39 – Public Records, Printing and Notices," Arizona State Legislature, 2021, <https://www.azleg.gov/arsDetail/?title=39>.



G



GOLDWATER INSTITUTE