

Beehive State Abuzz Over New Corporate and Polling Disclosure Requirements, Legislative Session Contribution Ban

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Three recent campaign finance-related developments in Utah are attracting a lot of attention. Foremost, Governor Herbert approved a dramatic shift in the disclosures required of politically active corporations (for profit and nonprofit alike). Until now, corporations that made contributions were required to report only the contributions themselves. But House Bill 43—signed into law last month—goes one step further, targeting those who donate *to* corporations as well. Effective May 14, corporations “that ha[ve] made expenditures for political purposes that total at least \$750” must report the names and addresses of donors and the sums given. And unlike its federal counterpart—whose current “opt-in” system generally calls for disclosure only of persons who earmark their donations for political purposes—Utah's new law makes donor disclosure the default rule; thus, donors can avoid disclosure only by affirmatively prohibiting the recipient corporation from using their funds for political purposes. HB 43 overcame heated opposition from groups ranging from the American Civil Liberties Union to the National Rifle Association, but it may well face legal challenges going forward.

A second campaign finance-related development in Utah is the recently passed push poll disclosure law. Heavily pushed by former state representative Brad Daw and backed by House Majority Whip Greg Hughes, Governor Herbert signed into law push poll legislation that requires the disclosure of the person who pays for a poll regarding a candidate or ballot proposition. Former representative Daw believes he lost his seat in the 2012 primary due to expansive push polls that he thinks influenced voters against him. The legislation

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does exempt survey focus groups conducted in person with groups of three to 13 people. The fine for failing to report a push poll is \$100. Pollsters are unhappy with the new legislation because it is seen as making their research more difficult. In their view, research will be stigmatized and their polling will be relegated to the same status as advertising or marketing. Pollsters also are concerned that disclosing who paid for the commissioned poll can distort the answers respondents provide to research questions.

Lastly, the *Salt Lake Tribune* reports that legislators may have raised funds during Utah's legislative session, violating state law. Utah's blackout period rule bars a person, lobbyist, principal or political committee from contributing to a legislator or campaign committee (or a PAC controlled by a legislator) during the general legislative session, a veto-override session or a special election. This most recent potential violation came to light when a state PAC, the Thomas Paine Common Sense PAC, reported 10 donations totaling \$1,975 that were received during the 2013 Utah legislative session. What makes this case particularly unusual is that all the contributors were legislators who pooled their resources to hire a research assistant. The research assistant was needed to study the hundreds of bills introduced during the short legislative session. While this offense could have given rise to a variety of sanctions—including misdemeanor charges—the Lieutenant Governor's office declined to take action here.