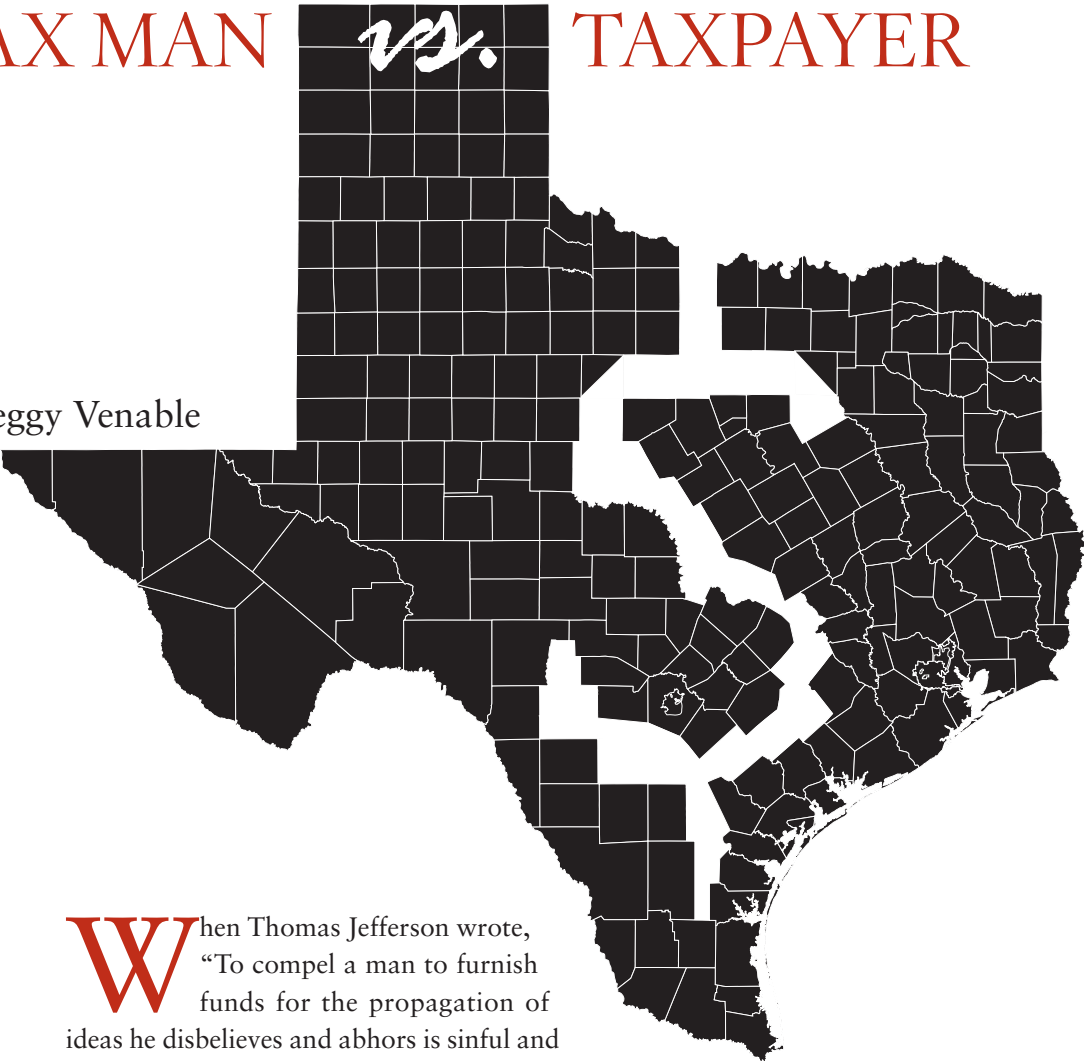


Taxpayer-funded Lobbying:

TAX MAN *vs.* TAXPAYER

By Peggy Venable



When Thomas Jefferson wrote, “To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical,” he likely had no idea that the practice would become commonplace at state capitols across the country.

Lobbying with tax dollars is a growth industry. The Texas Association of Counties (TAC) was established 30 years ago to provide services to Texas counties and includes lobbying as one of those services. Just five years ago, TAC had three registered lobbyists at the Texas Capitol. By 2005, their lobby list grew to 15. TAC is only one of many organizations which use taxpayer dollars to lobby—often against taxpayer interests—pitting the tax man against the taxpayer.

During the recent legislative session in Texas, TAC joined the Texas Municipal League (TML) and other taxpayer-funded organizations to oppose what many taxpayers supported—a Taxpayer Bill of Rights-type measure to limit the growth in government and require a vote to increase spending. The legislation was introduced to allow taxpayers to keep any property tax savings that would

by allowing them to hide behind the lobbying activities of organizations and other lobbyist-hired guns.

Texas legislation which would have required disclosure of lobbying expenses by school districts—part of an extensive education reform bill—was met with massive opposition by the education lobby. That lobby, much of it fueled by tax dollars, fervently fought greater

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be realized by offsetting local property taxes with state funds.

These organizations' opposition to taxpayer protections, coupled with the TML's support for the City of New London in the infamous *Kelo* decision, make it clear that public dollars are funding efforts which, when revealed, leave many taxpayers steamed.

How does this happen? Some cities, counties and other government entities hire lobbyists to represent them at the capitol while others register staff as lobbyists during session. And most cities and counties (as well as other local taxing entities) join organizations that do the lobbying for them, essentially carrying the water for local elected officials at taxpayer expense.

Taxpayer-funded lobbying clearly distorts the democratic process. Government should not be in the business of providing funding to give voice to points of view that may not represent the views of the majority of the taxpayers. Allowing the government the authority to allocate taxpayer funds for lobbying transforms government from its appropriate role as a neutral policymaker into an advocate of certain policies and ideologies. This situation produces fertile ground for abuse and shields elected officials for cities, counties and schools

accountability and financial disclosure measures.

The Texas legislature failed to pass reforms during regular session and two subsequent called sessions this year. But, Texas Gov. Rick Perry issued an executive order requiring school districts to disclose their expenses for lobbying, public relations and lawsuits including expenses for the school finance lawsuit suing the state for more funding.

Disclosure is long overdue. But prohibiting the practice of using public funds to lobby is the relief taxpayers are seeking—and help may be on the way.

During the first called session, one media outlet wrote about two announcements made that day. One announcement—when Agriculture Commissioner Susan Combs announced her candidacy for Texas Comptroller—was described as “expected,” but the second announcement was described as having “sent shockwaves through the halls of the capitol.”

Those “shockwaves” were caused by three taxpayers filing a lawsuit against one Texas county, alleging the county illegally expended funds to join an association that lobbies. The lawsuit is *Venable v. Williamson County*, and I am joined in the lawsuit by Americans for Prosperity (AFP) members Janice Brauner and Judy



Morris, fellow Williamson County taxpayers.

The lawsuit was filed as a last resort, and it seeks to force counties to comply with state law. The suit asserts that Williamson County has used general revenue funds to support county associations, including the Texas Association of Counties (TAC). TAC employs 15 registered lobbyists and participates in lobbying activities. The TAC has contended that their 15 paid lobbyists don't really lobby and that TAC is in compliance with state law.

Texas Local Government Code statute 89.002 states, "The commissioners court may spend, in the name of the county, money from the county's general fund for membership fees and dues of a nonprofit state association of the counties if...neither the association nor an employee of the association directly or indirectly influences or attempts to influence the outcome of any legislation pending before the legislature...." The lawsuit cites numerous examples of TAC communications which are clearly efforts to influence legislation.

Though this legal action is against one county, the practice is widespread. Of the 254 Texas counties, we have not found a single county which joined associations and did not use general revenue funds.

In the recent legislative session, county associations, funded with public dollars, opposed taxpayer protections that would have provided greater public accountability and fiscal transparency. The legislation these associations opposed would have helped end "taxation by valuation" and would have provided "truth in taxation." The county associations joined the cities' lobby and opposed both appraisal caps and local tax and expenditure limitations (TELS).

Gov. Perry had reason for concern. When then-Governor George W. Bush provided over \$1 billion in local property tax relief in the late '90s, taxpayers didn't get to realize the savings. Local taxing entities devoured that

savings. And with rising property appraisals, tax bills increased even when tax rates were lowered. And Texas legislators were lobbied hard by taxpayer-funded lobbyists against a new "Truth in Taxation" initiative that would require local elected officials to vote on whether to keep extra revenue generated by appraisal increases, legislation which would essentially stop taxation by valuation. Local officials can now tell voters they didn't raise their tax rates when local entities are increasing their revenues through appraisal increases.

Lobbying with taxpayer dollars has cost Williamson County residents approximately a half million dollars over the past 10 years. AFP estimates that as much as a half billion public dollars are spent on lobbying over the course of a biennium. Though this cost is considerable, the positions they take to deny taxpayer protections are even more expensive to Texas taxpayers.

Taxpayers have impressive representation in this lawsuit. Attorneys representing the plaintiffs are former Supreme Court Justice Steven Wayne Smith and David Rogers, both with the Texas Legal Foundation. These distinguished attorneys have taken this case on as a cause.

"The Texas Legal Foundation is pleased to represent the plaintiffs in this case because we believe in the principles of government accountability, limited government spending, the rule of law, and representation of the people through their elected representatives," Smith said. "We believe that all these principles are endangered when taxpayers are illegally taxed in order to pay lobbyists to persuade the Legislature to raise taxes."

Some public officials like Cheryl Johnson, County Tax Assessor and Collector for Galveston County, agree that the concept of using tax dollars to lobby is inappropriate. She said that the county associations' responsibility should be to educate and assist the counties and not to lobby.

This is an unusual action for AFP and represents the first Texas lawsuit challenging use of public funds for lobbying. It may well serve as a wake-up call to taxpayers and to elected officials that taxpayer money should not be used for lobbying. And shining the light of public scrutiny on the practice may serve as a wake-up call to elected officials who are not currently held accountable for expending pub-

In order of priority, the top four all involve increases in taxes in one way or another. The highest priority for the TML is not just to oppose, but to defeat “any legislation that is deemed detrimental to cities.” That includes legislation which would impose revenue caps of any kind. Recently, the Texas Municipal League, along with the Texas Association of Counties openly and vigorously opposed the

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lic funds for lobbying.

Just what is the extent of taxpayer-funded lobbying? The numbers are mind-boggling.

The City of Austin has 26 lobbyists listed with the Texas Ethics Commission; the City of Houston has 23; Dallas Independent School District has eight, the Texas Municipal League has 14 and the Texas Association of Counties has its 15 lobbyists (which TAC claims don't actually lobby).

Texas cities have 146 lobbyists registered and spend as much as \$9 million on lobbying.

County-related taxing entities have 106 registered lobbyists (some representing more than one county) and spend as much as \$5 million at the Texas legislature, while individual counties have 27 registered lobbyists and may spend as much as \$1 million on lobbying.

In addition to a myriad of organizations representing educator interests, independent school districts in Texas have 26 registered lobbyists (Northwest ISD in Bexar County has 9) and spend as much as \$855,000.

The Texas Municipal League (TML) spends as much as \$1,285,000. The TML agenda for 2005 summed it up. It lists legislation the board has chosen to actively use their resources to support and the proposals it opposed.

taxpayer protections and revenue caps in the Governor's plan to revamp school finance.

In stark contrast, the Texas Association of Business—essentially the state chamber of commerce—has only five lobbyists. (And they are not at public expense.)

There may be as much as \$36 million spent on lobbying in Texas alone this year by groups or entities who oppose government spending limitations.

Pitting the tax spender against the taxpayer clearly distorts the legislative process. The voices of taxpayers are being overshadowed by powerful entities and those taxpayers who would fight are pitted against hired guns funded by the taxpayers' very own tax dollars.

Relief may be in sight as the legal action runs a parallel track with efforts to get legislation enacted next session to end the practice of using taxpayers' own money to lobby against taxpayer interests. Thomas Jefferson is joined by legions of taxpayers dedicated to putting this tyrannical practice to rest.

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