

CAMPAIGN FINANCE REPORTING PENALTIES

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends provisions in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, that are related to fines.

Highlighted Provisions:

This bill:

- ▶ clarifies when a fine may be imposed for failing to file a financial statement; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-206, as last amended by Laws of Utah 2011, Chapter 396

20A-11-305, as last amended by Laws of Utah 2011, Chapter 396

20A-11-508, as last amended by Laws of Utah 2010, Chapter 389

20A-11-512, as enacted by Laws of Utah 2011, Chapter 396

20A-11-603, as last amended by Laws of Utah 2012, Chapter 69

20A-11-1005, as enacted by Laws of Utah 2010, Chapter 389

20A-11-1305, as last amended by Laws of Utah 2011, Chapter 396

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-11-206** is amended to read:

20A-11-206. State office candidate -- Failure to file reports -- Penalties.

(1) (a) A state office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

~~(1)(a)~~ (b) If a state office candidate fails to file an interim report due before the

33 regular primary election, on August 31, or before the regular general election, the lieutenant
 34 governor shall, after making a reasonable attempt to discover if the report was timely filed[
 35 ~~(†)~~], inform the county clerk and other appropriate election officials who:

36 ~~[(A)†]~~ (i) (A) shall, if practicable, remove the name of the candidate from the ballots
 37 before the ballots are delivered to voters; or

38 ~~[(†)]~~ (B) shall, if removing the candidate's name from the ballot is not practicable,
 39 inform the voters by any practicable method that the candidate has been disqualified and that
 40 votes cast for the candidate will not be counted; and

41 ~~[(B)]~~ (ii) may not count any votes for that candidate[~~;~~ and].

42 ~~[(ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.]~~

43 ~~[(b)]~~ (c) Any state office candidate who fails to file timely a financial statement
 44 required by Subsection 20A-11-204(1)(b), (c), or (d) is disqualified and the vacancy on the
 45 ballot may be filled as provided in Section 20A-1-501.

46 ~~[(c)]~~ (d) Notwithstanding Subsections (1)~~[(a)]~~(b) and (1)~~[(b)]~~(c), a state office
 47 candidate is not disqualified [~~and the lieutenant governor may not impose a fine~~] if:

48 (i) the candidate timely files the reports required by this section no later than the due
 49 date in accordance with Section 20A-11-103;

50 (ii) the reports are completed, detailing accurately and completely the information
 51 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
 52 and

53 (iii) the omissions, errors, or inaccuracies described in Subsection (1)~~[(c)]~~(d)(ii) are
 54 corrected in:

55 (A) an amended report; or

56 (B) the next scheduled report.

57 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant
 58 governor shall review each filed summary report to ensure that:

59 (i) each state office candidate that is required to file a summary report has filed one;
 60 and

61 (ii) each summary report contains the information required by this part.

62 (b) If it appears that any state office candidate has failed to file the summary report
 63 required by law, if it appears that a filed summary report does not conform to the law, or if the

64 lieutenant governor has received a written complaint alleging a violation of the law or the
 65 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
 66 violation or receipt of a written complaint, notify the state office candidate of the violation or
 67 written complaint and direct the state office candidate to file a summary report correcting the
 68 problem.

69 (c) (i) It is unlawful for any state office candidate to fail to file or amend a summary
 70 report within 14 days after receiving notice from the lieutenant governor under this section.

71 (ii) Each state office candidate who violates Subsection (2)(c)(i) is guilty of a class B
 72 misdemeanor.

73 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
 74 attorney general.

75 Section 2. Section **20A-11-305** is amended to read:

76 **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

77 (1) (a) A legislative office candidate who fails to file a financial statement by the
 78 deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

79 ~~[(1)-(a)]~~ (b) If a legislative office candidate fails to file an interim report due before the
 80 regular primary election, on August 31, or before the regular general election, the lieutenant
 81 governor shall, after making a reasonable attempt to discover if the report was timely filed~~[-~~
 82 ~~(1)]~~, inform the county clerk and other appropriate election officials who:

83 ~~[(A)-(1)]~~ (i) (A) shall, if practicable, remove the name of the candidate from the ballots
 84 before the ballots are delivered to voters; or

85 ~~[(B)]~~ (B) shall, if removing the candidate's name from the ballot is not practicable,
 86 inform the voters by any practicable method that the candidate has been disqualified and that
 87 votes cast for the candidate will not be counted; and

88 ~~[(B)]~~ (ii) may not count any votes for that candidate~~[-and]~~.

89 ~~[(ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.]~~

90 ~~[(b)]~~ (c) Any legislative office candidate who fails to file timely a financial statement
 91 required by Subsection 20A-11-303(1)(b), (c), or (d) is disqualified and the vacancy on the
 92 ballot may be filled as provided in Section 20A-1-501.

93 ~~[(c)]~~ (d) Notwithstanding Subsections (1)~~[(a)]~~(b) and (1)~~[(b)]~~(c), a legislative office
 94 candidate is not disqualified ~~[and the lieutenant governor may not impose a fine]~~ if:

95 (i) the candidate timely files the reports required by this section no later than the due
96 date in accordance with Section 20A-11-103;

97 (ii) the reports are completed, detailing accurately and completely the information
98 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
99 and

100 (iii) the omissions, errors, or inaccuracies described in Subsection (1)~~(c)~~(d)(ii) are
101 corrected in:

102 (A) an amended report; or

103 (B) the next scheduled report.

104 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant
105 governor shall review each filed summary report to ensure that:

106 (i) each legislative office candidate that is required to file a summary report has filed
107 one; and

108 (ii) each summary report contains the information required by this part.

109 (b) If it appears that any legislative office candidate has failed to file the summary
110 report required by law, if it appears that a filed summary report does not conform to the law, or
111 if the lieutenant governor has received a written complaint alleging a violation of the law or the
112 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
113 violation or receipt of a written complaint, notify the legislative office candidate of the
114 violation or written complaint and direct the legislative office candidate to file a summary
115 report correcting the problem.

116 (c) (i) It is unlawful for any legislative office candidate to fail to file or amend a
117 summary report within 14 days after receiving notice from the lieutenant governor under this
118 section.

119 (ii) Each legislative office candidate who violates Subsection (2)(c)(i) is guilty of a
120 class B misdemeanor.

121 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
122 attorney general.

123 Section 3. Section **20A-11-508** is amended to read:

124 **20A-11-508. Political party reporting requirements -- Criminal penalties -- Fines.**

125 (1) (a) Each registered political party that fails to file a financial statement by the

126 deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

127 ~~[(1)(a)]~~ (b) Each registered political party that fails to file the interim reports due
128 before the regular primary election, on August 31, or before the regular general election is ~~is~~ ~~[(i)]~~
129 ~~subject to a fine imposed in accordance with Section 20A-11-1005; and (ii)]~~ guilty of a class B
130 misdemeanor.

131 ~~[(b)]~~ (c) The lieutenant governor shall report all violations of Subsection (1) ~~[(a)]~~ (b) to
132 the attorney general.

133 (2) Within 30 days after a deadline for the filing of a summary report required by this
134 part, the lieutenant governor shall review each filed report to ensure that:

135 (a) each political party that is required to file a report has filed one; and

136 (b) each report contains the information required by this part.

137 (3) If it appears that any political party has failed to file a report required by law, if it
138 appears that a filed report does not conform to the law, or if the lieutenant governor has
139 received a written complaint alleging a violation of the law or the falsity of any report, the
140 lieutenant governor shall, within five days of discovery of a violation or receipt of a written
141 complaint, notify the political party of the violation or written complaint and direct the political
142 party to file a summary report correcting the problem.

143 (4) (a) It is unlawful for any political party to fail to file or amend a summary report
144 within 14 days after receiving notice from the lieutenant governor under this section.

145 (b) Each political party who violates Subsection (4)(a) is guilty of a class B
146 misdemeanor.

147 (c) The lieutenant governor shall report all violations of Subsection (4)(a) to the
148 attorney general.

149 Section 4. Section **20A-11-512** is amended to read:

150 **20A-11-512. County political party -- Criminal penalties -- Fines.**

151 (1) (a) A county political party that fails to file an interim report that is due seven days
152 before the county political party's convention is subject to a fine imposed in accordance with
153 Section 20A-11-1005.

154 ~~[(1)]~~ (b) A county political party that fails to file the interim report due before the
155 regular primary election, on August 31, or before the regular general election is subject to a
156 fine of \$1,000, which the chief election officer shall deposit in the General Fund.

157 (2) Within 30 days after a deadline for the filing of the January 10 statement required
 158 by Section 20A-11-510, the lieutenant governor shall review each filed statement to ensure
 159 that:

160 (a) a county political party officer who is required to file a statement has filed one; and

161 (b) each statement contains the information required by Section 20A-11-510.

162 (3) If it appears that any county political party officer has failed to file a financial
 163 statement, if it appears that a filed financial statement does not conform to the law, or if the
 164 lieutenant governor has received a written complaint alleging a violation of the law or the
 165 falsity of any financial statement, the lieutenant governor shall, within five days of discovery of
 166 a violation or receipt of a written complaint, notify the county political party officer of the
 167 violation or written complaint and direct the county political party officer to file a financial
 168 statement correcting the problem.

169 (4) A county political party that fails to file or amend a financial statement within 14
 170 days after receiving notice from the lieutenant governor under this section is subject to a fine of
 171 \$1,000, which the chief election officer shall deposit in the General Fund.

172 Section 5. Section **20A-11-603** is amended to read:

173 **20A-11-603. Criminal penalties -- Fines.**

174 (1) (a) Each political action committee that fails to file a financial statement by the
 175 deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

176 ~~[(1)-(a)]~~ (b) Each political action committee that fails to file the financial statement due
 177 before the regular primary election, on August 31, before the municipal general election, or
 178 before the regular general election is ~~[(i) subject to a fine imposed in accordance with Section~~
 179 ~~20A-11-1005; and (ii)]~~ guilty of a class B misdemeanor.

180 ~~[(b)]~~ (c) The lieutenant governor shall report all violations of Subsection (1)~~[(a)]~~(b) to
 181 the attorney general.

182 (2) Within 30 days after a deadline for the filing of the January 10 statement required
 183 by this part, the lieutenant governor shall review each filed statement to ensure that:

184 (a) each political action committee that is required to file a statement has filed one; and

185 (b) each statement contains the information required by this part.

186 (3) If it appears that any political action committee has failed to file the January 10
 187 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant

188 governor has received a written complaint alleging a violation of the law or the falsity of any
 189 statement, the lieutenant governor shall, within five days of discovery of a violation or receipt
 190 of a written complaint, notify the political action committee of the violation or written
 191 complaint and direct the political action committee to file a statement correcting the problem.

192 (4) (a) It is unlawful for any political action committee to fail to file or amend a
 193 statement within 14 days after receiving notice from the lieutenant governor under this section.

194 (b) Each political action committee who violates Subsection (4)(a) is guilty of a class B
 195 misdemeanor.

196 (c) The lieutenant governor shall report all violations of Subsection (4)(a) to the
 197 attorney general.

198 Section 6. Section **20A-11-1005** is amended to read:

199 **20A-11-1005. Fines for failing to file a financial statement.**

200 (1) ~~[The]~~ Except as provided in Subsections 20A-11-512(1)(b) and (4), the chief
 201 election officer shall fine a filing entity \$100 for failing to file a financial statement by the
 202 filing deadline.

203 (2) If a filing entity is unable to pay the fine or files an affidavit of impecuniosity in a
 204 manner similar to Subsection 20A-9-201(5)(d), the chief election officer shall impose the fine
 205 against the candidate or treasurer, as appropriate.

206 (3) The chief election officer shall deposit fines collected under this chapter in the
 207 General Fund.

208 Section 7. Section **20A-11-1305** is amended to read:

209 **20A-11-1305. School board office candidate -- Failure to file statement --**

210 **Penalties.**

211 (1) (a) A school board office candidate who fails to file a financial statement by the
 212 deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

213 ~~[(+)(a)]~~ (b) If a school board office candidate fails to file an interim report due before
 214 the regular primary election, on August 31, or before the regular general election, the chief
 215 election officer shall, after making a reasonable attempt to discover if the report was timely
 216 filed~~[(+)]~~, inform the county clerk and other appropriate election officials who:

217 ~~[(A)(+)]~~ (i) (A) shall, if practicable, remove the name of the candidate from the ballots
 218 before the ballots are delivered to voters; or

219 ~~[(H)]~~ (B) shall, if removing the candidate's name from the ballot is not practicable,
220 inform the voters by any practicable method that the candidate has been disqualified and that
221 votes cast for candidate will not be counted; and

222 ~~[(B)]~~ (ii) may not count any votes for that candidate~~[-and].~~

223 ~~[(ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.]~~

224 ~~[(b)]~~ (c) Any school board office candidate who fails to file timely a financial
225 statement required by Subsection 20A-11-1303(1)(b), (c), or (d) is disqualified and the vacancy
226 on the ballot may be filled as provided in Section 20A-1-501.

227 ~~[(e)]~~ (d) Notwithstanding Subsections (1)~~[(a)]~~(b) and (1)~~[(b)]~~(c), a school board office
228 candidate is not disqualified and the chief election officer may not impose a fine if:

229 (i) the candidate timely files the reports required by this section in accordance with
230 Section 20A-11-103;

231 (ii) those reports are completed, detailing accurately and completely the information
232 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
233 and

234 (iii) those omissions, errors, or inaccuracies described in Subsection (1)~~[(e)]~~(d)(ii) are
235 corrected in:

236 (A) an amended report; or

237 (B) the next scheduled report.

238 (2) (a) Within 30 days after a deadline for the filing of a summary report by a candidate
239 for state school board, the lieutenant governor shall review each filed summary report to ensure
240 that:

241 (i) each state school board candidate that is required to file a summary report has filed
242 one; and

243 (ii) each summary report contains the information required by this part.

244 (b) If it appears that any state school board candidate has failed to file the summary
245 report required by law, if it appears that a filed summary report does not conform to the law, or
246 if the lieutenant governor has received a written complaint alleging a violation of the law or the
247 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
248 violation or receipt of a written complaint, notify the state school board candidate of the
249 violation or written complaint and direct the state school board candidate to file a summary

250 report correcting the problem.

251 (c) (i) It is unlawful for any state school board candidate to fail to file or amend a
252 summary report within 14 days after receiving notice from the lieutenant governor under this
253 section.

254 (ii) Each state school board candidate who violates Subsection (2)(c)(i) is guilty of a
255 class B misdemeanor.

256 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
257 attorney general.

258 (3) (a) Within 30 days after a deadline for the filing of a summary report, the county
259 clerk shall review each filed summary report to ensure that:

260 (i) each local school board candidate that is required to file a summary report has filed
261 one; and

262 (ii) each summary report contains the information required by this part.

263 (b) If it appears that any local school board candidate has failed to file the summary
264 report required by law, if it appears that a filed summary report does not conform to the law, or
265 if the county clerk has received a written complaint alleging a violation of the law or the falsity
266 of any summary report, the county clerk shall, within five days of discovery of a violation or
267 receipt of a written complaint, notify the local school board candidate of the violation or
268 written complaint and direct the local school board candidate to file a summary report
269 correcting the problem.

270 (c) (i) It is unlawful for any local school board candidate to fail to file or amend a
271 summary report within 14 days after receiving notice from the county clerk under this section.

272 (ii) Each local school board candidate who violates Subsection (3)(c)(i) is guilty of a
273 class B misdemeanor.

274 (iii) The county clerk shall report all violations of Subsection (3)(c)(i) to the district or
275 county attorney.