

POLITICAL CONSULTANT REGISTRATION

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill enacts and amends provisions in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, regarding political consultants.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a political consultant to register with the lieutenant governor; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-101, as last amended by Laws of Utah 2012, Chapter 230

ENACTS:

20A-11-1701, Utah Code Annotated 1953

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

Section 1. Section **20A-11-101** is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

33 (3) "Candidate" means any person who:

34 (a) files a declaration of candidacy for a public office; or

35 (b) receives contributions, makes expenditures, or gives consent for any other person to
36 receive contributions or make expenditures to bring about the person's nomination or election
37 to a public office.

38 (4) "Chief election officer" means:

39 (a) the lieutenant governor for state office candidates, legislative office candidates,
40 officeholders, political parties, political action committees, corporations, political issues
41 committees, state school board candidates, judges, and labor organizations, as defined in
42 Section 20A-11-1501; and

43 (b) the county clerk for local school board candidates.

44 (5) "Client" means a person who provides economic consideration to a political
45 consultant.

46 [~~(5)~~] (6) (a) "Contribution" means any of the following when done for political
47 purposes:

48 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of
49 value given to the filing entity;

50 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,
51 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or
52 anything of value to the filing entity;

53 (iii) any transfer of funds from another reporting entity to the filing entity;

54 (iv) compensation paid by any person or reporting entity other than the filing entity for
55 personal services provided without charge to the filing entity;

56 (v) remuneration from:

57 (A) any organization or its directly affiliated organization that has a registered lobbyist;

58 or

59 (B) any agency or subdivision of the state, including school districts; and

60 (vi) goods or services provided to or for the benefit of the filing entity at less than fair
61 market value.

62 (b) "Contribution" does not include:

63 (i) services provided without compensation by individuals volunteering a portion or all

64 of their time on behalf of the filing entity;

65 (ii) money lent to the filing entity by a financial institution in the ordinary course of
66 business; or

67 (iii) goods or services provided for the benefit of a candidate or political party at less
68 than fair market value that are not authorized by or coordinated with the candidate or political
69 party.

70 ~~[(6)]~~ (7) "Coordinated with" means that goods or services provided for the benefit of a
71 candidate or political party are provided:

72 (a) with the candidate's or political party's prior knowledge, if the candidate or political
73 party does not object;

74 (b) by agreement with the candidate or political party;

75 (c) in coordination with the candidate or political party; or

76 (d) using official logos, slogans, and similar elements belonging to a candidate or
77 political party.

78 ~~[(7)]~~ (8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business
79 organization that is registered as a corporation or is authorized to do business in a state and
80 makes any expenditure from corporate funds for:

81 (i) the purpose of expressly advocating for political purposes; or

82 (ii) the purpose of expressly advocating the approval or the defeat of any ballot
83 proposition.

84 (b) "Corporation" does not mean:

85 (i) a business organization's political action committee or political issues committee; or

86 (ii) a business entity organized as a partnership or a sole proprietorship.

87 ~~[(8)]~~ (9) "County political party" means, for each registered political party, all of the
88 persons within a single county who, under definitions established by the political party, are
89 members of the registered political party.

90 ~~[(9)]~~ (10) "County political party officer" means a person whose name is required to be
91 submitted by a county political party to the lieutenant governor in accordance with Section
92 20A-8-402.

93 ~~[(10)]~~ (11) "Detailed listing" means:

94 (a) for each contribution or public service assistance:

95 (i) the name and address of the individual or source making the contribution or public
96 service assistance;

97 (ii) the amount or value of the contribution or public service assistance; and

98 (iii) the date the contribution or public service assistance was made; and

99 (b) for each expenditure:

100 (i) the amount of the expenditure;

101 (ii) the person or entity to whom it was disbursed;

102 (iii) the specific purpose, item, or service acquired by the expenditure; and

103 (iv) the date the expenditure was made.

104 [~~(11)~~] (12) "Election" means each:

105 (a) regular general election;

106 (b) regular primary election; and

107 (c) special election at which candidates are eliminated and selected.

108 [~~(12)~~] (13) "Electioneering communication" means a communication that:

109 (a) has at least a value of \$10,000;

110 (b) clearly identifies a candidate or judge; and

111 (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising
112 facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly
113 identified candidate's or judge's election date.

114 [~~(13)~~] (14) (a) "Expenditure" means:

115 (i) any disbursement from contributions, receipts, or from the separate bank account
116 required by this chapter;

117 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
118 or anything of value made for political purposes;

119 (iii) an express, legally enforceable contract, promise, or agreement to make any
120 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
121 value for political purposes;

122 (iv) compensation paid by a filing entity for personal services rendered by a person
123 without charge to a reporting entity;

124 (v) a transfer of funds between the filing entity and a candidate's personal campaign
125 committee; or

126 (vi) goods or services provided by the filing entity to or for the benefit of another
127 reporting entity for political purposes at less than fair market value.

128 (b) "Expenditure" does not include:

129 (i) services provided without compensation by individuals volunteering a portion or all
130 of their time on behalf of a reporting entity;

131 (ii) money lent to a reporting entity by a financial institution in the ordinary course of
132 business; or

133 (iii) anything listed in Subsection ~~[(13)]~~ (14)(a) that is given by a reporting entity to
134 candidates for office or officeholders in states other than Utah.

135 ~~[(14)]~~ (15) "Federal office" means the office of President of the United States, United
136 States Senator, or United States Representative.

137 ~~[(15)]~~ (16) "Filing entity" means the reporting entity that is required to file a financial
138 statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

139 ~~[(16)]~~ (17) "Financial statement" includes any summary report, interim report, verified
140 financial statement, or other statement disclosing contributions, expenditures, receipts,
141 donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial
142 Retention Elections.

143 ~~[(17)]~~ (18) "Governing board" means the individual or group of individuals that
144 determine the candidates and committees that will receive expenditures from a political action
145 committee, political party, or corporation.

146 ~~[(18)]~~ (19) "Incorporation" means the process established by Title 10, Chapter 2, Part
147 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

148 ~~[(19)]~~ (20) "Incorporation election" means the election authorized by Section 10-2-111.

149 ~~[(20)]~~ (21) "Incorporation petition" means a petition authorized by Section 10-2-109.

150 ~~[(21)]~~ (22) "Individual" means a natural person.

151 ~~[(22)]~~ (23) "Interim report" means a report identifying the contributions received and
152 expenditures made since the last report.

153 ~~[(23)]~~ (24) "Legislative office" means the office of state senator, state representative,
154 speaker of the House of Representatives, president of the Senate, and the leader, whip, and
155 assistant whip of any party caucus in either house of the Legislature.

156 ~~[(24)]~~ (25) "Legislative office candidate" means a person who:

- 157 (a) files a declaration of candidacy for the office of state senator or state representative;
- 158 (b) declares oneself to be a candidate for, or actively campaigns for, the position of
- 159 speaker of the House of Representatives, president of the Senate, or the leader, whip, and
- 160 assistant whip of any party caucus in either house of the Legislature; or
- 161 (c) receives contributions, makes expenditures, or gives consent for any other person to
- 162 receive contributions or make expenditures to bring about the person's nomination or election
- 163 to a legislative office.
- 164 ~~[(25)]~~ (26) "Officeholder" means a person who holds a public office.
- 165 ~~[(26)]~~ (27) "Party committee" means any committee organized by or authorized by the
- 166 governing board of a registered political party.
- 167 ~~[(27)]~~ (28) "Person" means both natural and legal persons, including individuals,
- 168 business organizations, personal campaign committees, party committees, political action
- 169 committees, political issues committees, and labor organizations, as defined in Section
- 170 20A-11-1501.
- 171 ~~[(28)]~~ (29) "Personal campaign committee" means the committee appointed by a
- 172 candidate to act for the candidate as provided in this chapter.
- 173 ~~[(29)]~~ (30) "Personal use expenditure" has the same meaning as provided under Section
- 174 20A-11-104.
- 175 ~~[(30)]~~ (31) (a) "Political action committee" means an entity, or any group of
- 176 individuals or entities within or outside this state, a major purpose of which is to:
- 177 (i) solicit or receive contributions from any other person, group, or entity for political
- 178 purposes; or
- 179 (ii) make expenditures to expressly advocate for any person to refrain from voting or to
- 180 vote for or against any candidate or person seeking election to a municipal or county office.
- 181 (b) "Political action committee" includes groups affiliated with a registered political
- 182 party but not authorized or organized by the governing board of the registered political party
- 183 that receive contributions or makes expenditures for political purposes.
- 184 (c) "Political action committee" does not mean:
- 185 (i) a party committee;
- 186 (ii) any entity that provides goods or services to a candidate or committee in the regular
- 187 course of its business at the same price that would be provided to the general public;

188 (iii) an individual;

189 (iv) individuals who are related and who make contributions from a joint checking
190 account;

191 (v) a corporation, except a corporation a major purpose of which is to act as a political
192 action committee; or

193 (vi) a personal campaign committee.

194 (32) (a) "Political consultant" means a person who receives economic consideration for
195 providing a political consulting service.

196 (b) "Political consultant" does not mean an employee of a political consultant.

197 (33) (a) "Political consulting service" means an activity performed for a political
198 purpose or to influence the approval or defeat of a proposed ballot proposition or ballot
199 proposition.

200 (b) "Political consulting service" does not mean a legal service or an accounting
201 service.

202 (c) "Political consulting service" includes soliciting a contribution on behalf of a
203 reporting entity, advising a reporting entity to make an expenditure, and authorizing or making
204 an expenditure on behalf of a reporting entity.

205 ~~[(31)]~~ (34) "Political convention" means a county or state political convention held by
206 a registered political party to select candidates.

207 ~~[(32)]~~ (35) (a) "Political issues committee" means an entity, or any group of individuals
208 or entities within or outside this state, a major purpose of which is to:

209 (i) solicit or receive donations from any other person, group, or entity to assist in
210 placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or
211 to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

212 (ii) make expenditures to expressly advocate for any person to sign or refuse to sign a
213 ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any
214 proposed ballot proposition or an incorporation in an incorporation election; or

215 (iii) make expenditures to assist in qualifying or placing a ballot proposition on the
216 ballot or to assist in keeping a ballot proposition off the ballot.

217 (b) "Political issues committee" does not mean:

218 (i) a registered political party or a party committee;

219 (ii) any entity that provides goods or services to an individual or committee in the
220 regular course of its business at the same price that would be provided to the general public;

221 (iii) an individual;

222 (iv) individuals who are related and who make contributions from a joint checking
223 account; or

224 (v) a corporation, except a corporation a major purpose of which is to act as a political
225 issues committee.

226 ~~[(33)]~~ (36) (a) "Political issues contribution" means any of the following:

227 (i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or
228 anything of value given to a political issues committee;

229 (ii) an express, legally enforceable contract, promise, or agreement to make a political
230 issues donation to influence the approval or defeat of any ballot proposition;

231 (iii) any transfer of funds received by a political issues committee from a reporting
232 entity;

233 (iv) compensation paid by another reporting entity for personal services rendered
234 without charge to a political issues committee; and

235 (v) goods or services provided to or for the benefit of a political issues committee at
236 less than fair market value.

237 (b) "Political issues contribution" does not include:

238 (i) services provided without compensation by individuals volunteering a portion or all
239 of their time on behalf of a political issues committee; or

240 (ii) money lent to a political issues committee by a financial institution in the ordinary
241 course of business.

242 ~~[(34)]~~ (37) (a) "Political issues expenditure" means any of the following:

243 (i) any payment from political issues contributions made for the purpose of influencing
244 the approval or the defeat of:

245 (A) a ballot proposition; or

246 (B) an incorporation petition or incorporation election;

247 (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for
248 the express purpose of influencing the approval or the defeat of:

249 (A) a ballot proposition; or

- 250 (B) an incorporation petition or incorporation election;
- 251 (iii) an express, legally enforceable contract, promise, or agreement to make any
252 political issues expenditure;
- 253 (iv) compensation paid by a reporting entity for personal services rendered by a person
254 without charge to a political issues committee; or
- 255 (v) goods or services provided to or for the benefit of another reporting entity at less
256 than fair market value.
- 257 (b) "Political issues expenditure" does not include:
- 258 (i) services provided without compensation by individuals volunteering a portion or all
259 of their time on behalf of a political issues committee; or
- 260 (ii) money lent to a political issues committee by a financial institution in the ordinary
261 course of business.
- 262 ~~[(35)]~~ (38) "Political purposes" means an act done with the intent or in a way to
263 influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote
264 for or against any candidate or a person seeking a municipal or county office at any caucus,
265 political convention, or election.
- 266 ~~[(36)]~~ (39) "Primary election" means any regular primary election held under the
267 election laws.
- 268 ~~[(37)]~~ (40) "Public office" means the office of governor, lieutenant governor, state
269 auditor, state treasurer, attorney general, state or local school board member, state senator, state
270 representative, speaker of the House of Representatives, president of the Senate, and the leader,
271 whip, and assistant whip of any party caucus in either house of the Legislature.
- 272 ~~[(38)]~~ (41) (a) "Public service assistance" means the following when given or provided
273 to an officeholder to defray the costs of functioning in a public office or aid the officeholder to
274 communicate with the officeholder's constituents:
- 275 (i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of
276 money or anything of value to an officeholder; or
- 277 (ii) goods or services provided at less than fair market value to or for the benefit of the
278 officeholder.
- 279 (b) "Public service assistance" does not include:
- 280 (i) anything provided by the state;

281 (ii) services provided without compensation by individuals volunteering a portion or all
282 of their time on behalf of an officeholder;

283 (iii) money lent to an officeholder by a financial institution in the ordinary course of
284 business;

285 (iv) news coverage or any publication by the news media; or

286 (v) any article, story, or other coverage as part of any regular publication of any
287 organization unless substantially all the publication is devoted to information about the
288 officeholder.

289 ~~[(39)]~~ (42) "Publicly identified class of individuals" means a group of 50 or more
290 individuals sharing a common occupation, interest, or association that contribute to a political
291 action committee or political issues committee and whose names can be obtained by contacting
292 the political action committee or political issues committee upon whose financial statement the
293 individuals are listed.

294 ~~[(40)]~~ (43) "Receipts" means contributions and public service assistance.

295 ~~[(41)]~~ (44) "Registered lobbyist" means a person registered under Title 36, Chapter 11,
296 Lobbyist Disclosure and Regulation Act.

297 ~~[(42)]~~ (45) "Registered political action committee" means any political action
298 committee that is required by this chapter to file a statement of organization with the lieutenant
299 governor's office.

300 ~~[(43)]~~ (46) "Registered political issues committee" means any political issues
301 committee that is required by this chapter to file a statement of organization with the lieutenant
302 governor's office.

303 ~~[(44)]~~ (47) "Registered political party" means an organization of voters that:

304 (a) participated in the last regular general election and polled a total vote equal to 2%
305 or more of the total votes cast for all candidates for the United States House of Representatives
306 for any of its candidates for any office; or

307 (b) has complied with the petition and organizing procedures of Chapter 8, Political
308 Party Formation and Procedures.

309 ~~[(45)]~~ (48) (a) "Remuneration" means a payment:

310 (i) made to a legislator for the period the Legislature is in session; and

311 (ii) that is approximately equivalent to an amount a legislator would have earned

312 during the period the Legislature is in session in the legislator's ordinary course of business.

313 (b) "Remuneration" does not mean anything of economic value given to a legislator by:

314 (i) the legislator's primary employer in the ordinary course of business; or

315 (ii) a person or entity in the ordinary course of business:

316 (A) because of the legislator's ownership interest in the entity; or

317 (B) for services rendered by the legislator on behalf of the person or entity.

318 [~~(46)~~] (49) "Reporting entity" means a candidate, a candidate's personal campaign

319 committee, a judge, a judge's personal campaign committee, an officeholder, a party

320 committee, a political action committee, a political issues committee, a corporation, or a labor

321 organization, as defined in Section 20A-11-1501.

322 [~~(47)~~] (50) "School board office" means the office of state school board or local school

323 board.

324 [~~(48)~~] (51) (a) "Source" means the person or entity that is the legal owner of the

325 tangible or intangible asset that comprises the contribution.

326 (b) "Source" means, for political action committees and corporations, the political

327 action committee and the corporation as entities, not the contributors to the political action

328 committee or the owners or shareholders of the corporation.

329 [~~(49)~~] (52) "State office" means the offices of governor, lieutenant governor, attorney

330 general, state auditor, and state treasurer.

331 [~~(50)~~] (53) "State office candidate" means a person who:

332 (a) files a declaration of candidacy for a state office; or

333 (b) receives contributions, makes expenditures, or gives consent for any other person to

334 receive contributions or make expenditures to bring about the person's nomination or election

335 to a state office.

336 [~~(51)~~] (54) "Summary report" means the year end report containing the summary of a

337 reporting entity's contributions and expenditures.

338 [~~(52)~~] (55) "Supervisory board" means the individual or group of individuals that

339 allocate expenditures from a political issues committee.

340 Section 2. Section **20A-11-1701** is enacted to read:

341 **Part 17. Political Consultant**

342 **20A-11-1701. Political consultant required to register.**

- 343 (1) A political consultant shall register with the lieutenant governor before:
344 (a) providing a political consulting service; or
345 (b) receiving any economic consideration for providing a political consulting service.
346 (2) The lieutenant governor shall provide a political consultant registration form that
347 includes a space for the following information:
348 (a) the political consultant's name and business address;
349 (b) the name and business address of each client;
350 (c) the general purpose, interest, and nature of each client; and
351 (d) a certification signed by the political consultant that certifies that the information
352 provided in the form is true, accurate, and complete to the best of the political consultant's
353 knowledge and belief.
354 (3) (a) A political consultant shall update the registration form if the political
355 consultant obtains an additional client during the election cycle.
356 (b) At the beginning of each election cycle, a political consultant shall renew the
357 registration required by this section.
358 (4) (a) A political consultant shall pay a \$10 registration fee.
359 (b) The lieutenant governor shall deposit a registration fee in the General Fund.
360 (5) The lieutenant governor shall make a registration form filed in accordance with this
361 part available for viewing on the lieutenant governor's website within seven calendar days after
362 the lieutenant governor receives the form.