

CAMPAIGN FINANCE REPORTING PENALTIES

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

Senate Sponsor: Margaret Dayton

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:

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

31 **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

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

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

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

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

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

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

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

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

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

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

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

57 (A) an amended report; or

58 (B) the next scheduled report.

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

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

62 and

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

64 (b) If it appears that any state office candidate has failed to file the summary report
65 required by law, if it appears that a filed summary report does not conform to the law, or if the
66 lieutenant governor has received a written complaint alleging a violation of the law or the
67 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
68 violation or receipt of a written complaint, notify the state office candidate of the violation or
69 written complaint and direct the state office candidate to file a summary report correcting the
70 problem.

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

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

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

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

78 **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

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

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

85 [~~(A)(†)~~] (i) (A) shall, if practicable, remove the name of the candidate from the ballots

86 before the ballots are delivered to voters; or

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

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

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

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

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

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

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

102 (iii) the omissions, errors, or inaccuracies described in Subsection (1)~~[(e)]~~(d)(ii) are
103 corrected in:

104 (A) an amended report; or

105 (B) the next scheduled report.

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

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

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

111 (b) If it appears that any legislative office candidate has failed to file the summary
112 report required by law, if it appears that a filed summary report does not conform to the law, or
113 if the lieutenant governor has received a written complaint alleging a violation of the law or the

114 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
 115 violation or receipt of a written complaint, notify the legislative office candidate of the
 116 violation or written complaint and direct the legislative office candidate to file a summary
 117 report correcting the problem.

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

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

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

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

126 **20A-11-508. Political party reporting requirements -- Criminal penalties -- Fines.**

127 (1) (a) Each registered political party that fails to file a financial statement by the
 128 deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

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

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

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

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

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

139 (3) If it appears that any political party has failed to file a report required by law, if it
 140 appears that a filed report does not conform to the law, or if the lieutenant governor has
 141 received a written complaint alleging a violation of the law or the falsity of any report, the

142 lieutenant governor shall, within five days of discovery of a violation or receipt of a written
143 complaint, notify the political party of the violation or written complaint and direct the political
144 party to file a summary report correcting the problem.

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

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

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

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

152 **20A-11-512. County political party -- Criminal penalties -- Fines.**

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

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

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

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

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

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

170 statement correcting the problem.

171 (4) A county political party that fails to file or amend a financial statement within 14
172 days after receiving notice from the lieutenant governor under this section is subject to a fine of
173 \$1,000, which the chief election officer shall deposit in the General Fund.

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

175 **20A-11-603. Criminal penalties -- Fines.**

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

178 [~~(1)(a)~~] (b) Each political action committee that fails to file the financial statement due
179 before the regular primary election, on August 31, before the municipal general election, or
180 before the regular general election is [~~(i)~~] subject to a fine imposed in accordance with Section
181 20A-11-1005; and (ii) guilty of a class B misdemeanor.

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

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

- 186 (a) each political action committee that is required to file a statement has filed one; and
- 187 (b) each statement contains the information required by this part.

188 (3) If it appears that any political action committee has failed to file the January 10
189 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant
190 governor has received a written complaint alleging a violation of the law or the falsity of any
191 statement, the lieutenant governor shall, within five days of discovery of a violation or receipt
192 of a written complaint, notify the political action committee of the violation or written
193 complaint and direct the political action committee to file a statement correcting the problem.

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

196 (b) Each political action committee [~~who~~] that violates Subsection (4)(a) is guilty of a
197 class B misdemeanor.

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

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

201 **20A-11-1005. Fines for failing to file a financial statement.**

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

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

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

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

211 **20A-11-1305. School board office candidate -- Failure to file statement --**
212 **Penalties.**

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

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

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

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

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

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

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

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

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

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

236 (iii) those omissions, errors, or inaccuracies described in Subsection (1)~~(c)~~(d)(ii) are
237 corrected in:

238 (A) an amended report; or

239 (B) the next scheduled report.

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

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

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

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

253 (c) (i) It is unlawful for any state school board candidate to fail to file or amend a

254 summary report within 14 days after receiving notice from the lieutenant governor under this
255 section.

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

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

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

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

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

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

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

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

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