

HB0246S02 compared with HB0246S01

~~text~~ shows text that was in HB0246S01 but was deleted in HB0246S02.

text shows text that was not in HB0246S01 but was inserted into HB0246S02.

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Representative Craig Hall proposes the following substitute bill:

FAILURE TO REPORT CONTRIBUTIONS OR PUBLIC

SERVICE ASSISTANCE

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Election Code by imposing a penalty for failure to report contributions or public service assistance within the ~~30-day~~time period required by law.

Highlighted Provisions:

This bill:

- ▶ imposes a penalty for a state office candidate, a legislative office candidate, a school board office candidate, or a judge, that fails to report contributions or public service assistance, as applicable, within the ~~30-day~~time period required by law; and
- ▶ provides for publication of information relating to a penalty described in the

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preceding paragraph.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

20A-11-201, as last amended by Laws of Utah 2012, Chapter 230

20A-11-301, as last amended by Laws of Utah 2012, Chapter 230

20A-11-1301, as last amended by Laws of Utah 2012, Chapter 230

20A-12-303, 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-11-201** is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds -- No personal use -- Report contributions within 30 days -- Report other accounts.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign

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account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

(i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(b) Each state office candidate shall report each contribution and public service assistance to the lieutenant governor within 30 days after the contribution or public service assistance is received.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of public service assistance that a state office candidate fails to report within the ~~{30-day}~~ time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; **and**

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(D) the date of the contribution ~~}; and};~~

~~{~~ (E) the name of the person who made the contribution.

~~}~~ (6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 2. Section **20A-11-301** is amended to read:

20A-11-301. Legislative office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- ~~{Report contributions within 30 days}~~ Contribution reporting deadline -- Report other accounts.

(1) (a) (i) Each legislative office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

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- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A legislative office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(b) Each legislative office candidate shall report each contribution and public service assistance to the lieutenant governor within 30 days after the contribution or public service assistance is received.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of public service assistance that a legislative office candidate fails to report within the ~~30-day~~ time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

- (i) the greater of \$50 or 15% of the amount of the contribution; or

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(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; **and**

(D) the date of the contribution ~~}; and~~;

~~{~~ (E) the name of the person who made the contribution.

~~}~~ (6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 3. Section **20A-11-1301** is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- ~~Report~~

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~~contributions within 30 days}~~ **Contribution reporting deadline** -- Report other accounts.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with:

(a) the lieutenant governor in the case of a state school board candidate; and

(b) the county clerk, in the case of a local school board candidate.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board candidate may transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

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(6) (a) As used in this Subsection (6) and Section 20A-11-1303, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance within 30 days after the contribution or public service assistance is received.

(c) Except as provided in Subsection (6)(d), for each contribution or provision of public service assistance that a school board office candidate fails to report within the ~~30-day~~ time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (6)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; ~~and~~

(D) the date of the contribution ~~and~~;

~~{ (E) the name of the person who made the contribution.~~

~~†~~ (7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

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(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 4. Section **20A-12-303** is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each contribution in one or more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution within 30 days after the contribution is received.

(c) Except as provided in Subsection (3)(d), for each contribution that a judge fails to report within the ~~30-day~~ time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to the greater of \$50 or 15% of the amount of the contribution.

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(d) A fine described in Subsection (3)(c) may not exceed the amount of the contribution to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution; ~~and;~~

~~{ (E) the name of the person who made the contribution. }~~

Section 5. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.