

CHANGES MADE IN THE 2014 GENERAL SESSION TO REQUIRED REPORTING BY LEGISLATIVE OFFICEHOLDERS AND LEGISLATIVE CANDIDATES OF CONTRIBUTIONS, EXPENDITURES, AND POTENTIAL CONFLICTS

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This document does not list all contributions, expenditures, or potential conflicts required to be reported by a legislative officeholder or a legislative candidate. Rather, it highlights the changes made during the 2014 General Session.

1. Contributions

a. Definition of a contribution

The definition of a "contribution" has changed.

i. Loan from candidate to the candidate's own campaign

A contribution now includes "a loan made by a candidate deposited to the candidate's own campaign." Renumbered in HB394 to Utah Code Subsection 20A-11-101(6)(a)(vi).

ii. In-kind contributions

A contribution also includes in-kind contributions, which are defined as "anything of value, other than money, that is accepted by or coordinated with a filing entity." Renumbered in HB394 to Utah Code Subsections 20A-11-101(6)(a)(vii) and (24).

"Coordinated with" is an existing definition that "means that goods or services provided for the benefit of a candidate or political party are provided:

- (a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;
- (b) by agreement with the candidate or political party;
- (c) in coordination with the candidate or political party; or
- (d) using official logos, slogans, and similar elements belonging to a candidate or political party."

Renumbered in HB394 to Utah Code Subsection 20A-11-101(7).

b. Transactional intermediary

When disclosing the source of a contribution or the identity of a donor, the reporting entity may not simply list the "transactional intermediary" by which the contribution or donation is made (e.g., Visa, Mastercard, or Paypal), but must list the actual identity of the person or donor that makes the contribution. HB394, Utah Code Section 20A-11-101.5.

"Transactional intermediary" means a "person, including a credit card company, a financial institution, or a money transfer service, that pays or transfers money to a person on behalf of another person." HB394, Utah Code Subsection 20A-11-101.5(1).

c. Deadline for reporting a contribution or public service assistance

i. New rule

In the past, a legislative office candidate was required to report a contribution or public service assistance within 30 days after it was received. Utah Code Subsection 20A-11-301(5)(b). That is still the case, except that a legislative office candidate is now required to report a contribution or public service assistance within three business days after it was received, if:

- the legislative office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;
- the legislative office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or
- the legislative office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

HB246, Utah Code Subsection 20A-11-301(5)(b).

ii. Enforcement

A. Fine

Failure to timely report receipt of a contribution or public service assistance will result in a fine, imposed by the lieutenant governor against the legislative office candidate, in an amount equal to the greater of \$50 or 15% of the amount of the contribution or the value of the public service assistance (except that the fine may

not exceed the total amount of the contribution or the value of the public service assistance).

HB246, Utah Code Subsections 20A-11-301(5)(c) and (d).

B. Publication

Details regarding a fine imposed against a legislative office candidate will also be published on the lieutenant governor's website. HB246, Utah Code Subsection 20A-11-301(5)(e).

2. Expenditures

a. Definition

The definition of an expenditure now includes an expenditure "made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity." Renumbered in HB394 to Utah Code Subsection 20A-11-101(15). Under this definitional change, a reporting entity (not the reporting entity's agent) is required to also report expenditures made by an agent of the reporting entity on the reporting entity's behalf.

i. Reporting entity

"Reporting entity" is an existing definition that "means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501." Renumbered in HB394 to Utah Code Subsection 20A-11-101(52).

ii. Agent of a reporting entity

"Agent of a reporting entity" is a newly defined term that means:

- "(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;
- (b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;
- (c) the personal campaign committee of a candidate or officeholder;
- (d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or
- (e) a political consultant of a reporting entity."

HB394, Utah Code Subsection 20A-11-101(2).

iii. Political consultant

"Political consultant" " is a newly defined term that means:

" (35) (a) 'Political consultant' means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.
(b) 'Political consultant' includes a circumstance described in Subsection (35)(a), where the person:
(i) has already been paid, with money or other consideration;
(ii) expects to be paid in the future, with money or other consideration; or
(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration."

HB394, Utah Code Subsection 20A-11-101(35).

b. Transactional intermediary

When disclosing the identity of a person to whom an expenditure is made, the reporting entity may not simply list the "transactional intermediary" by which the expenditure is made (e.g., Visa, Mastercard, or Paypal), but must list the actual identity of the person to whom the expenditure is made. HB394, Utah Code Section 20A-11-101.5.

"Transactional intermediary" means a "person, including a credit card company, a financial institution, or a money transfer service, that pays or transfers money to a person on behalf of another person." HB394, Utah Code Subsection 20A-11-101.5(1).

3. Detailed listing

The director of elections, within the Office of the Lieutenant Governor, now has authority to further define the "form, type, and level of detail required in a detailed listing" for "each contribution and public service assistance received" and "each expenditure made" by a candidate or officeholder. HB394, Utah Code Section 20A-11-101.3.

4. Financial disclosure form (also known as the conflict of interest form)

HB394 made changes to the contents of a financial disclosure form (also known as a conflict of interest form) that a legislator or a candidate for legislative office is required to file.

a. Definitions

i. Immediate family member

The definition of an "immediate family" member has been broadened.

The definition is as follows:

"(3) 'Immediate family' means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder."

HB394, Utah Code Subsection 20A-11-1602(3).

The term "immediate family" member is used in the definition of a "contribution."

ii. Owner or officer

"Owner or officer" is a newly defined term that means:

"(5)(a) 'Owner or officer' means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
- (ii) an employee, agent, or independent contractor of the entity.

(b) 'Owner or officer' includes:

- (i) a member of a board of directors or other governing body of an entity; or

(ii) a partner in any type of partnership."

HB394, Utah Code Subsection 20A-11-1602(5).

iii. Preceding year

"Preceding year" means "the year immediately preceding the day on which the regulated officeholder files a financial disclosure form." HB394, Utah Code Subsection 20A-11-1602(6).

iv. Regulated officeholder

"Regulated officeholder" means "an individual who is required to file a financial disclosure form . . ." HB394, Utah Code Subsection 20A-11-1602(7).

b. Content of financial disclosure form

For a full list of the requirements for a financial disclosure form, refer to 2014 General Session HB394.

i. Current and past employers

A regulated officeholder is now required to disclose "each of the regulated officeholder's current employers and each of the regulated officeholder's employers during the preceding year." HB394, Utah Code Subsection 20A-11-1604(4)(b).

ii. Owner or officer

The disclosure requirements relating to an entity for which the regulated officeholder is an "owner or officer" are now broader (due to the new definition of an "owner or officer"). Additionally, the regulated officeholder is now required to disclose each entity in which the regulated officeholder "was an owner or officer during the preceding year." HB394, Utah Code Subsection 20A-11-1604(4)(d).

iii. Receipt of \$5,000 or more from an individual or entity

A regulated officeholder is now required to disclose "each individual from whom, or entity from which, the regulated officeholder has received \$5,000 or more in income during the preceding year." HB394, Utah Code Subsection 20A-11-1604(4)(e). However, in making this disclosure, a regulated officeholder "who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide" this information in relation to the entity or practice through which the regulated officeholder provides the goods or services and is not required to provide this information "in relation to the regulated officeholder's individual customers or clients." HB394, Utah Code Subsection 20A-11-1604(5)(b).

iv. Stocks or bonds

The required disclosures relating to an entity in which the regulated officeholder holds stocks or bonds now apply to all stocks or bonds that are held by the regulated officeholder on the day on which the financial disclosure form is filed, or during the preceding year, that have a fair market value of \$5,000 or more. HB394, Utah Code Subsection 20A-11-1604(4)(f).

v. Leadership in an entity

A regulated officeholder is now required to make disclosures regarding certain other entities in which the regulated officeholder currently

serves, or has served in the preceding year, on the board of directors or in any other type of paid leadership capacity. HB394, Utah Code Subsection 20A-11-1604(4)(g).

vi. Spouse's current and past employers

A regulated officeholder is now required to disclose both the current employers of the regulated officeholder's spouse and the regulated officeholder's spouse's employers during the preceding year. HB394, Utah Code Subsection 20A-11-1604(4)(j).

c. Amending a financial disclosure form

HB394 clarifies that a regulated officeholder may amend a financial disclosure form at any time. HB394, Utah Code Subsection 20A-11-1604(10).

d. Criminal and civil penalties

In addition to the existing applicable criminal and civil penalties, a regulated officeholder who intentionally or knowingly violates financial disclosure requirements is guilty of a class B misdemeanor and is subject to a civil penalty of \$100. HB394, Utah Code Subsection 20A-11-1604(12).

Also, a regulated officeholder is guilty of a class B misdemeanor, and subject to a civil fine of \$100, if the regulated officeholder fails to file a financial disclosure form, or an amended financial disclosure form, within seven days after receiving notice from the lieutenant governor. HB394, Utah Code Section 20A-11-1605.

e. Rulemaking authority

The director of elections, within the Office of the Lieutenant Governor, now has authority to further define the "form, type, and level of detail required in a . . . financial disclosure form." HB394, Utah Code Section 20A-11-101.3.

5. Other changes

a. Notice of reporting and filing requirements

Between January 1 and January 15 of each year, the chief election officer, within the Office of the Lieutenant Governor, is required to provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements. HB246, Utah Code Subsection 20A-11-103(6).

b. Legislature's website

The Legislature's website will now include, for each legislative officeholder, a link to the financial reports maintained on the lieutenant governor's website. HB246, Utah Code Section 20A-11-1604.