

Part 12

Political Activities of Public Entities Act

20A-11-1201 Title.

This part is known as the "Political Activities of Public Entities Act."

Amended by Chapter 21, 1999 General Session

20A-11-1202 Definitions.

As used in this part:

- (1) "Applicable election officer" means:
 - (a) a county clerk, if the email relates only to a local election; or
 - (b) the lieutenant governor, if the email relates to an election other than a local election.
- (2) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.
- (3) "Campaign contribution" means any of the following when done for a political purpose or to advocate for or against a ballot proposition:
 - (a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to a filing entity;
 - (b) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to a filing entity;
 - (c) any transfer of funds from another reporting entity to a filing entity;
 - (d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;
 - (e) remuneration from:
 - (i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or
 - (ii) any agency or subdivision of the state, including a school district; or
 - (f) an in-kind contribution.
- (4)
 - (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.
 - (b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:
 - (i) government appropriations;
 - (ii) taxes;
 - (iii) government fees imposed for regulatory or revenue raising purposes; or
 - (iv) interest earned on public funds or other returns on investment of public funds.
- (5) "Expenditure" means:
 - (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;
 - (b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;
 - (c) a transfer of funds between a public entity and a candidate's personal campaign committee;
 - (d) a transfer of funds between a public entity and a political issues committee; or

- (e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.
- (6) "Filing entity" means the same as that term is defined in Section 20A-11-101.
- (7) "Governmental interlocal cooperation agency" means an interlocal cooperation agency that receives some or all of its revenues from:
 - (a) government appropriations;
 - (b) taxes;
 - (c) government fees imposed for regulatory or revenue raising purposes; or
 - (d) interest earned on public funds or other returns on investment of public funds.
- (8)
 - (a) "Influence" means to campaign or advocate for or against a ballot proposition.
 - (b) "Influence" does not mean providing a brief statement about a public entity's position on a ballot proposition and the reason for that position.
- (9) "Interlocal cooperation agency" means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.
- (10) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.
- (11) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:
 - (a) candidate for public office at any caucus, political convention, primary, or election; or
 - (b) judge standing for retention at any election.
- (12)
 - (a) "Public entity" includes the state, each state agency, each county, municipality, school district, local district, governmental interlocal cooperation agency, and each administrative subunit of each of them.
 - (b) "Public entity" does not include a commercial interlocal cooperation agency.
 - (c) "Public entity" includes local health departments created under Title 26, Chapter 1, Department of Health Organization.
- (13)
 - (a) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.
 - (b) "Public funds" does not include money donated to a public entity by a person or entity.
- (14)
 - (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.
 - (b) "Public official" includes the person or group that:
 - (i) has supervisory authority over the personnel and affairs of a public entity; and
 - (ii) approves the expenditure of funds for the public entity.
- (15) "Reporting entity" means the same as that term is defined in Section 20A-11-101.
- (16)
 - (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.
 - (b) "State agency" includes the legislative branch, the Board of Regents, the institutional councils of each higher education institution, and each higher education institution.

Amended by Chapter 68, 2017 General Session

20A-11-1203 Public entity prohibited from expending public funds on certain electoral matters.

- (1) Unless specifically required by law, and except as provided in Section 20A-11-1206, a public entity may not make an expenditure from public funds for political purposes or to influence a ballot proposition.
- (2) A violation of this section does not invalidate an otherwise valid election.

Amended by Chapter 435, 2015 General Session

20A-11-1204 Criminal penalty.

Each public official who violates Section 20A-11-1203 is guilty of a class B misdemeanor.

Amended by Chapter 435, 2015 General Session

20A-11-1205 Use of public email for a political purpose.

- (1) Except as provided in Subsection (5), a person may not send an email using the email of a public entity:
 - (a) for a political purpose;
 - (b) to advocate for or against a ballot proposition; or
 - (c) to solicit a campaign contribution.
- (2) The applicable election officer shall impose a civil fine against a person who violates Subsection (1) as follows:
 - (a) up to \$250 for a first violation; and
 - (b) except as provided in Subsection (3), for each subsequent violation committed after any applicable election officer imposes a fine against the person for a first violation, \$1,000 multiplied by the number of violations committed by the person.
- (3) The applicable election officer shall consider a violation of this section as a first violation if the violation is committed more than seven years after the day on which the person last committed a violation of this section.
- (4) For purposes of this section, one violation means one act of sending an email, regardless of the number of recipients of the email.
- (5) A person does not violate this section if the lieutenant governor finds that the email described in Subsection (1) was inadvertently sent by the person described in Subsection (1), using the email of a public entity.
- (6) A violation of this section does not invalidate an otherwise valid election.
- (7) An email sent in violation of Subsection (1), as determined by the records officer, constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding any applicability of Subsection 63G-2-103(22)(b)(i).

Amended by Chapter 44, 2018 General Session

20A-11-1206 Exclusions.

- (1) Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's individual First Amendment rights for political purposes.

- (2) Nothing in this chapter prohibits a public entity from providing factual information about a ballot proposition to the public, so long as the information grants equal access to both the opponents and proponents of the ballot proposition.
- (3) Nothing in this chapter prohibits a public entity from the neutral encouragement of voters to vote.
- (4) Nothing in this chapter prohibits an elected official from campaigning or advocating for or against a ballot proposition.

Enacted by Chapter 435, 2015 General Session