

1 **POLITICAL ACTIVITIES OF PUBLIC**
2 **ENTITIES AMENDMENTS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David L. Thomas**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions of the Political Activities of Public Entities Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ clarifies the definition of "public entity" and "public official"; and
- 13 ▶ provides that public officials who violate the act are guilty of a class B

14 misdemeanor.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides an immediate effective date.

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **20A-11-1202**, as last amended by Chapter 297, Laws of Utah 1996

22 ENACTS:

23 **20A-11-1204**, Utah Code Annotated 1953

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

26 Section 1. Section **20A-11-1202** is amended to read:

27 **20A-11-1202. Definitions.**



28 As used in this chapter:

29 (1) "Ballot proposition" means constitutional amendments, initiatives, referenda,
30 judicial retention questions, opinion questions, bond approvals, or other questions submitted to
31 the voters for their approval or rejection.

32 (2) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation
33 agency that receives its revenues from conduct of its commercial operations.

34 (b) "Commercial interlocal cooperation agency" does not mean an interlocal
35 cooperation agency that receives some or all of its revenues from:

36 (i) government appropriations;

37 (ii) taxes;

38 (iii) government fees imposed for regulatory or revenue raising purposes; or

39 (iv) interest earned on public funds or other returns on investment of public funds.

40 (3) "Expenditure" means:

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

43 (b) an express, legally enforceable contract, promise, or agreement to make any
44 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
45 value for political purposes;

46 (c) a transfer of funds between a public entity and a candidate's personal campaign
47 committee;

48 (d) a transfer of funds between a public entity and a political issues committee; or

49 (e) goods or services provided to or for the benefit of a candidate, a candidate's
50 personal campaign committee, or a political issues committee for political purposes at less
51 than fair market value.

52 (4) "Governmental interlocal cooperation agency" means an interlocal cooperation
53 agency that receives some or all of its revenues from:

54 (a) government appropriations;

55 (b) taxes;

56 (c) government fees imposed for regulatory or revenue raising purposes; or

57 (d) interest earned on public funds or other returns on investment of public funds.

58 (5) (a) "Influence" means to campaign or advocate for or against a ballot proposition.

59 (b) "Influence" does not mean providing a brief statement about a public entity's
60 position on a ballot proposition and the reason for that position.

61 (6) "Interlocal cooperation agency" means an entity created by interlocal agreement
62 under the authority of Title 11, Chapter 13, Interlocal [~~Co-operation~~] Cooperation Act.

63 (7) (a) "Political issues committee" means an entity, or any group of individuals or
64 entities within or outside this state, that solicits or receives contributions from any other person,
65 group, or entity and makes expenditures from these contributions to influence, or to intend to
66 influence, directly or indirectly, any person to assist in placing a ballot proposition on the
67 ballot, to assist in keeping a ballot proposition off the ballot, or to refrain from voting or to vote
68 for or to vote against any ballot proposition.

69 (b) "Political issues committee" does not mean an entity that provides goods or
70 services to an individual or committee in the regular course of its business at the same price
71 that would be provided to the general public.

72 (8) "Political purposes" means an act done with the intent or in a way to influence or
73 intend to influence, directly or indirectly, any person to refrain from voting or to vote for or
74 against any candidate for public office at any caucus, political convention, primary, or election.

75 (9) (a) "Public entity" includes the state, each state agency, each county, municipality,
76 school district, special district, [~~and~~] governmental interlocal cooperation agency, and each
77 administrative subunit of each of them.

78 (b) "Public entity" does not include a commercial interlocal cooperation agency.

79 (c) "Public entity" includes local health departments created under Title 26, Chapter 1,
80 Local Health Departments.

81 (10) (a) "Public funds" means any monies received by a public entity from
82 appropriations, taxes, fees, interest, or other returns on investment.

83 (b) "Public funds" does not include monies donated to a public entity by a person or
84 entity.

85 (11) (a) "a" "Public official" means an elected or appointed member of government with
86 authority to make or determine public policy.

87 (b) "Public official" includes the person or group **§ [~~vested~~] THAT:**

87a **(i) [~~with~~] HAS § supervisory authority**

88 **over the personnel and affairs of a public entity § ; AND**

88a **(ii) APPROVES THE EXPENDITURE OF FUNDS FOR THE PUBLIC ENTITY § .**

89 (12) "Special district" means each entity created under the authority of Title 17A,

90 Special Districts.

91 (13) (a) "State agency" means each department, commission, board, council, agency,
92 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
93 unit, bureau, panel, or other administrative unit of the state.

94 (b) "State agency" includes the legislative branch, the Board of Regents, the
95 institutional councils of each higher education institution, and each higher education
96 institution.

97 Section 2. Section 20A-11-1204 is enacted to read:

98 **20A-11-1204. Criminal penalty.**

99 Each public official who violates this part is guilty of a class B misdemeanor.

100 Section 3. **Effective date.**

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

Legislative Review Note
as of 12-19-03 1:52 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel