

1 **CAMPAIGN FINANCE REPORTING PENALTIES**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Keith Grover**

5 Senate Sponsor: Margaret Dayton

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Government Operations Interim Committee recommended this bill.

10 **General Description:**

11 This bill amends provisions in Title 20A, Chapter 11, Campaign and Financial
12 Reporting Requirements, that are related to fines.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ clarifies when a fine may be imposed for failing to file a financial statement; and
16 ▶ makes technical and conforming amendments.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **20A-11-206**, as last amended by Laws of Utah 2011, Chapter 396

24 **20A-11-305**, as last amended by Laws of Utah 2011, Chapter 396

25 **20A-11-508**, as last amended by Laws of Utah 2010, Chapter 389

26 **20A-11-512**, as enacted by Laws of Utah 2011, Chapter 396

27 **20A-11-603**, as last amended by Laws of Utah 2012, Chapter 69



28 20A-11-1005, as enacted by Laws of Utah 2010, Chapter 389

29 20A-11-1305, as last amended by Laws of Utah 2011, Chapter 396



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

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

33 **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

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

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

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

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

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

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

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

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

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

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

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

- 59 (A) an amended report; or
- 60 (B) the next scheduled report.

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

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

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

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

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

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

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

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

80 **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

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

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

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

89 ~~[(+)]~~ (B) shall, if removing the candidate's name from the ballot is not practicable,

90 inform the voters by any practicable method that the candidate has been disqualified and that
91 votes cast for the candidate will not be counted; and

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

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

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

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

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

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

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

106 (A) an amended report; or

107 (B) the next scheduled report.

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

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

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

113 (b) If it appears that any legislative office candidate has failed to file the summary
114 report required by law, if it appears that a filed summary report does not conform to the law, or
115 if the lieutenant governor has received a written complaint alleging a violation of the law or the
116 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
117 violation or receipt of a written complaint, notify the legislative office candidate of the
118 violation or written complaint and direct the legislative office candidate to file a summary
119 report correcting the problem.

120 (c) (i) It is unlawful for any legislative office candidate to fail to file or amend a

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

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

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

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

128 **20A-11-508. Political party reporting requirements -- Criminal penalties -- Fines.**

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

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

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

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

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

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

141 (3) If it appears that any political party has failed to file a report required by law, if it
142 appears that a filed report does not conform to the law, or if the lieutenant governor has
143 received a written complaint alleging a violation of the law or the falsity of any report, the
144 lieutenant governor shall, within five days of discovery of a violation or receipt of a written
145 complaint, notify the political party of the violation or written complaint and direct the political
146 party to file a summary report correcting the problem.

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

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

151 (c) The lieutenant governor shall report all violations of Subsection (4)(a) to the

152 attorney general.

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

154 **20A-11-512. County political party -- Criminal penalties -- Fines.**

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

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

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

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

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

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

173 (4) A county political party that fails to file or amend a financial statement within 14
174 days after receiving notice from the lieutenant governor under this section is subject to a fine of
175 \$1,000, which the chief election officer shall deposit in the General Fund.

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

177 **20A-11-603. Criminal penalties -- Fines.**

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

180 ~~(1)~~ (a) (b) Each political action committee that fails to file the financial statement due
181 before the regular primary election, on August 31, before the municipal general election, or
182 before the regular general election is ~~subject to a fine imposed in accordance with Section~~

183 ~~20A-11-1005~~; and (ii)] guilty of a class B misdemeanor.

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

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

188 (a) each political action committee that is required to file a statement has filed one; and

189 (b) each statement contains the information required by this part.

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

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

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

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

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

203 **20A-11-1005. Fines for failing to file a financial statement.**

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

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

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

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

213 **20A-11-1305. School board office candidate -- Failure to file statement --**

214 **Penalties.**

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

217 ~~[(1)(a)]~~ (b) If a school board office candidate fails to file an interim report due before
218 the regular primary election, on August 31, or before the regular general election, the chief
219 election officer shall, after making a reasonable attempt to discover if the report was timely
220 filed~~[: (1)]~~, inform the county clerk and other appropriate election officials who:

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

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

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

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

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

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

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

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

238 (iii) those omissions, errors, or inaccuracies described in Subsection (1)~~[(c)]~~(d)(ii) are
239 corrected in:

240 (A) an amended report; or

241 (B) the next scheduled report.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Legislative Review Note
as of 10-22-12 7:32 AM

Office of Legislative Research and General Counsel