

1 **CAMPAIGN AND FINANCIAL REPORTING REQUIREMENTS**

2 **REVISIONS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd Weiler**

6 House Sponsor: Daniel McCay

7
8 **LONG TITLE**

9 **General Description:**

10 This bill establishes a deadline to pay a fine imposed for violating Title 20A, Chapter
11 11, Campaign and Financial Reporting Requirements, and prohibits a person from
12 using the email of a public entity to send an email for a political purpose.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ establishes a deadline to pay a fine imposed for violating Title 20A, Chapter 11,
16 Campaign and Financial Reporting Requirements;
- 17 ▶ prohibits a person from sending an email, using the email of a public entity, for a
18 political purpose;
- 19 ▶ provides for a civil fine against a person who violates the provisions of this bill; and
- 20 ▶ makes technical and conforming amendments.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **20A-11-1202**, as last amended by Laws of Utah 2009, Chapter 60



28 20A-11-1203, as last amended by Laws of Utah 2014, Chapter 158

29 20A-11-1204, as enacted by Laws of Utah 2004, Chapter 142

30 ENACTS:

31 20A-11-105, Utah Code Annotated 1953

32 20A-11-1205, Utah Code Annotated 1953

33 20A-11-1206, Utah Code Annotated 1953



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

36 Section 1. Section 20A-11-105 is enacted to read:

37 **20A-11-105. Deadline for payment of fine.**

38 A person against whom the lieutenant governor imposes a fine under this chapter shall
39 pay the fine within 30 days after the day on which the lieutenant governor imposes the fine.

40 Section 2. Section 20A-11-1202 is amended to read:

41 **20A-11-1202. Definitions.**

42 As used in this part:

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

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

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

- 50 (i) government appropriations;
- 51 (ii) taxes;
- 52 (iii) government fees imposed for regulatory or revenue raising purposes; or
- 53 (iv) interest earned on public funds or other returns on investment of public funds.

54 (3) "Expenditure" means:

55 (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
56 or anything of value;

57 (b) an express, legally enforceable contract, promise, or agreement to make any
58 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of

59 value;

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

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

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

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

68 (a) government appropriations;

69 (b) taxes;

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

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

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

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

75 (6) "Interlocal cooperation agency" means an entity created by interlocal agreement
76 under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

77 (7) "Local district" means an entity under Title 17B, Limited Purpose Local
78 Government Entities - Local Districts, and includes a special service district under Title 17D,
79 Chapter 1, Special Service District Act.

80 (8) "Political purposes" means an act done with the intent or in a way to influence or
81 intend to influence, directly or indirectly, any person to refrain from voting or to vote for or
82 against any:

83 (a) candidate for public office at any caucus, political convention, primary, or
84 election[;]; or

85 (b) judge standing for retention at any election.

86 (9) (a) "Public entity" includes the state, each state agency, each county, municipality,
87 school district, local district, governmental interlocal cooperation agency, and each
88 administrative subunit of each of them.

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

90 (c) "Public entity" includes local health departments created under Title 26, Chapter 1,
91 Department of Health Organization.

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

94 (b) "Public funds" does not include money donated to a public entity by a person or
95 entity.

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

98 (b) "Public official" includes the person or group that:

99 (i) has supervisory authority over the personnel and affairs of a public entity; and

100 (ii) approves the expenditure of funds for the public entity.

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

104 (b) "State agency" includes the legislative branch, the Board of Regents, the
105 institutional councils of each higher education institution, and each higher education
106 institution.

107 Section 3. Section **20A-11-1203** is amended to read:

108 **20A-11-1203. Public entity prohibited from expending public funds on certain**
109 **electoral matters.**

110 (1) Unless specifically required by law, and except as provided in Section
111 20A-11-1206, a public entity may not make an expenditure from public funds for political
112 purposes or to influence a ballot proposition.

113 ~~[(2) Nothing in this chapter prohibits a public official from speaking, campaigning,~~
114 ~~contributing personal money, or otherwise exercising the public official's individual First~~
115 ~~Amendment rights for political purposes.]~~

116 ~~[(3) Nothing in this chapter prohibits a public entity from providing factual information~~
117 ~~about a ballot proposition to the public, so long as the information grants equal access to both~~
118 ~~the opponents and proponents of the ballot proposition.]~~

119 ~~[(4) Nothing in this chapter prohibits a public entity from the neutral encouragement of~~
120 ~~voters to vote.]~~

121 ~~[(5) Nothing in this chapter prohibits an elected official from campaigning or~~
122 ~~advocating for or against a ballot proposition.]~~

123 ~~[(6)]~~ (2) A violation of this section does not invalidate an otherwise valid election.

124 Section 4. Section **20A-11-1204** is amended to read:

125 **20A-11-1204. Criminal penalty.**

126 Each public official who violates ~~[this part]~~ Section 20A-11-1203 is guilty of a class B
127 misdemeanor.

128 Section 5. Section **20A-11-1205** is enacted to read:

129 **20A-11-1205. Use of public email for a political purpose.**

130 (1) A person may not send an email, using the email of a public entity, for a political
131 purpose.

132 (2) The lieutenant governor shall impose a civil fine against a person who violates
133 Subsection (1) as follows:

134 (a) up to \$100 for a first violation; and

135 (b) except as provided in Subsection (3), for each subsequent violation committed after
136 the lieutenant governor imposes a fine against the person for a first violation, \$250 multiplied
137 by the number of violations committed by the person.

138 (3) The lieutenant governor shall consider a violation of this section as a first violation
139 if the violation is committed more than seven years after the day on which the person last
140 committed a violation of this section.

141 (4) For purposes of this section, one violation means one act of sending an email,
142 regardless of the number of recipients of the email.

143 (5) A violation of this section does not invalidate an otherwise valid election.

144 Section 6. Section **20A-11-1206** is enacted to read:

145 **20A-11-1206. Exclusions.**

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

149 (2) Nothing in this chapter prohibits a public entity from providing factual information
150 about a ballot proposition to the public, so long as the information grants equal access to both
151 the opponents and proponents of the ballot proposition.

152 (3) Nothing in this chapter prohibits a public entity from the neutral encouragement of
153 voters to vote.

154 (4) Nothing in this chapter prohibits an elected official from campaigning or
155 advocating for or against a ballot proposition.

Legislative Review Note
as of 1-2-15 9:06 AM

Office of Legislative Research and General Counsel