

HB0034S01 compared with HB0034

{deleted text} shows text that was in HB0034 but was deleted in HB0034S01.

Inserted text shows text that was not in HB0034 but was inserted into HB0034S01.

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Representative Lee B. Perry proposes the following substitute bill:

CAMPAIGN FINANCE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

{Committee Note:

— The Government Operations Interim Committee recommended this bill.

{General Description:

This bill amends provisions relating to campaign finance reporting requirements.

Highlighted Provisions:

This bill:

- ▶ clarifies and modifies financial reporting requirements for a political action committee;
- ▶ enacts penalties for failure to comply with political action committee financial reporting requirements; and
- ▶ requires a corporation to make financial disclosures for certain donations made to the corporation with the knowledge or intent that the donated money will be used by

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the corporation for political ~~(purposes)~~matters.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-601, as last amended by Laws of Utah 2018, Chapter 83

20A-11-602, as last amended by Laws of Utah 2018, Chapter 83

20A-11-701, as last amended by Laws of Utah 2017, Chapter 276

20A-11-702, as last amended by Laws of Utah 2017, Chapter 276

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

Section 1. Section **20A-11-601** is amended to read:

20A-11-601. Political action committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Each political action committee shall file a statement of organization with the lieutenant governor's office by January 10 of each year, unless the political action committee has filed a notice of dissolution under Subsection (4).

(b) If a political action committee is organized after the January 10 filing date, the political action committee shall file an initial statement of organization no later than seven days after the earlier of the day on which the political action committee:

(i) [receiving] receives contributions totaling at least \$750; or

(ii) [distributing] makes expenditures for political purposes totaling at least \$750.

(c) Except as provided in Subsection (1)(d), the lieutenant governor shall fine a political action committee \$100 for failing to timely comply with Subsection (1)(a) or (b).

(d) The lieutenant governor may waive the fine described in Subsection (1)(c) and issue a warning to the political action committee if:

(i) the political action committee has not previously violated Subsection (1)(a) or (b);

(ii) the lieutenant governor determines that the failure to timely comply with

Subsection (1)(a) or (b) is due to a lack of knowledge of the requirements described in

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Subsection (1)(a) or (b); and

(iii) the political action committee promptly complies with Subsection (1)(a) or (b), as applicable, after becoming aware of the requirement.

[~~(e)~~] (e) Each political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political action committee shall designate two officers who have primary decision-making authority for the political action committee.

(b) A person may not exercise primary decision-making authority for a political action committee who is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and address of the political action committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2)(a);

(c) the name, street address, occupation, and title of all other officers of the political action committee;

(d) the name and street address of the organization, individual corporation, association, unit of government, or union that the political action committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political action committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer; and

(g) the name, street address, and occupation of each member of the governing and advisory boards, if any.

(4) (a) Any registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political action committee does not exempt that political action committee from complying with the financial reporting requirements of this chapter.

(5) (a) Unless the political action committee has filed a notice of dissolution under Subsection (4), a political action committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2)(a).

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- (b) Notice of a change of a primary officer described in Subsection (2)(a) shall:
 - (i) be filed within 10 days of the date of the change; and
 - (ii) contain the name and title of the officer being replaced, and the name, street address, occupation, and title of the new officer.
 - (6) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.
 - (b) Each primary officer designated in Subsection (2)(a) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:
 - (i) was organized less than 90 days before the date of the general election; and
 - (ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.
 - (c) A violation of this Subsection (6) is a third degree felony.
- Section 2. Section **20A-11-602** is amended to read:
- 20A-11-602. Political action committees -- Financial reporting.**
- (1) (a) Each registered political action committee that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$750, during a calendar year shall file a verified financial statement with the lieutenant governor's office:
 - (i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;
 - (ii) seven days before the state political convention of each major political party;
 - (iii) seven days before the regular primary election date;
 - (iv) on September 30; and
 - (v) seven days before:
 - (A) the municipal general election; and
 - (B) the regular general election date.
 - (b) The registered political action committee shall report:
 - (i) a detailed listing of all contributions received and expenditures made since the last statement; and

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- (ii) for a financial statement described in Subsections (1)(a)(ii) through (iv), all contributions and expenditures as of five days before the required filing date of the financial statement.
- (c) The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.
- (2) (a) The verified financial statement shall include:
 - (i) the name and address of any individual who makes a contribution to the reporting political action committee, if known, and the amount of the contribution;
 - (ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, if known, and the amount of the contribution;
 - (iii) the name and address of any political action committee, group, or entity, if known, that makes a contribution to the reporting political action committee, and the amount of the contribution;
 - (iv) for each nonmonetary contribution, the fair market value of the contribution;
 - (v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;
 - (vi) for each nonmonetary expenditure, the fair market value of the expenditure;
 - (vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;
 - (viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and
 - (ix) a summary page in the form required by the lieutenant governor that identifies:
 - (A) beginning balance;
 - (B) total contributions during the period since the last statement;
 - (C) total contributions to date;
 - (D) total expenditures during the period since the last statement; and
 - (E) total expenditures to date.
- (b) (i) Contributions received by a political action committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.
- (ii) Two or more contributions from the same source that have an aggregate total of

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more than \$50 may not be reported in the aggregate, but shall be reported separately.

(3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.

(4) (a) As used in this Subsection (4), "received" means:

- (i) for a cash contribution, that the cash is given to a political action committee;
- (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and
- (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political action committee.

(b) A political action committee shall report each contribution to the lieutenant governor:

(i) except as provided in Subsection (4)(b)(ii), within 31 days after the day on which the contribution is received[.]; or

(ii) within three business days after the day on which the contribution is received, if:

(A) the contribution is received within 30 days before the day on which a state or county convention for a registered political party is held;

(B) the contribution is received within 30 days before the day on which the primary election is held; or

(C) the contribution is received within 30 days before the day on which the general election is held.

(c) For each contribution that a political action committee fails to report within the time period described in Subsection (4)(b), the lieutenant governor shall impose a fine against the political action committee in an amount equal to:

(i) 10% of the amount of the contribution, if the political action committee reports the contribution within 60 days after the day on which the time period described in Subsection (4)(b) ends; or

(ii) 20% of the amount of the contribution, if the political action committee fails to report the contribution within 60 days after the day on which the time period described in Subsection (4)(b) ends.

(5) A political action committee may not expend a contribution for political purposes if

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the contribution:

- (a) is cash or a negotiable instrument;
- (b) exceeds \$50; and
- (c) is from an unknown source.

(6) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a political action committee shall disburse the amount of the contribution to:

- (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or
- (b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 3. Section **20A-11-701** is amended to read:

20A-11-701. Campaign financial reporting by corporations -- Filing requirements -- Statement contents.

(1) (a) Each corporation that has made expenditures for political purposes that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

- (i) on January 10, reporting expenditures as of December 31 of the previous year;
- (ii) seven days before the state political convention for each major political party;
- (iii) seven days before the regular primary election date;
- (iv) on September 30; and
- (v) seven days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement;

(ii) for a financial statement described in Subsections (1)(a)(ii) through (v), all expenditures as of five days before the required filing date of the financial statement; [and]

(iii) subject to Subsection (1)(e), for each person who, during the period beginning one year before the day on which the corporation files the report and ending when the corporation files the report, donates a total of \$100-\$500 or more to the corporation, if the corporation knows or has reason to know that the person makes the donation with the knowledge or intent that the money will be used by the corporation use the donation for an expenditure for

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political purposes:

- (A) the name and address of the person; and
 - (B) the amount donated by the person that was not included in a previous report; and
 - [~~(iii)~~] (iv) whether the corporation, including an officer of the corporation, director of the corporation, or person with at least 10% ownership in the corporation:
 - (A) has bid since the last financial statement on a contract, as defined in Section 63G-6a-103, in excess of \$100,000;
 - (B) is currently bidding on a contract, as defined in Section 63G-6a-103, in excess of \$100,000; or
 - (C) is a party to a contract, as defined in Section 63G-6a-103, in excess of \$100,000.
 - (c) The corporation need not file a financial statement under this section if the corporation:
 - (i) made no expenditures during the reporting period[.]; and
 - (ii) is not required, for the reporting period, to report the information described in Subsection (1)(b)(iii).
 - (d) The corporation is not required to report an expenditure made to, or on behalf of, a reporting entity that the reporting entity is required to include in a financial statement described in this chapter or Chapter 12, Part 2, Judicial Retention Elections.
 - (e) A corporation does not, under Subsection (1)(b)(iii), know or have reason to know that a donation is made with the knowledge or intent that the corporation use the donation for an expenditure for political purposes, based solely on the fact that the corporation discloses that a portion of a donation or dues paid to the corporation is used for lobbying or political activities.
- (2) The financial statement shall include:
- (a) the name and address of each reporting entity that received an expenditure from the corporation, and the amount of each expenditure;
 - (b) the total amount of expenditures disbursed by the corporation; and
 - (c) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the financial statement.

Section 4. Section **20A-11-702** is amended to read:

20A-11-702. Campaign financial reporting of political issues expenditures by

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corporations -- Financial reporting.

(1) (a) Each corporation that has made political issues expenditures on current or proposed ballot issues that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

- (i) on January 10, reporting expenditures as of December 31 of the previous year;
- (ii) seven days before the state political convention of each major political party;
- (iii) seven days before the regular primary election date;
- (iv) on September 30; and
- (v) seven days before the regular general election date.

(b) The corporation shall report:

- (i) a detailed listing of all expenditures made since the last financial statement; [and]
- (ii) for a financial statement described in Subsections (1)(a)(ii) through (v), expenditures as of five days before the required filing date of the financial statement[:]; and
- (iii) subject to Subsection (1)(d), for each person who, during the period beginning one year before the day on which the corporation files the report and ending when the corporation files the report, donates a total of ~~[\$100]~~ \$500 or more to the corporation, if the corporation knows or has reason to know that the person makes the donation with the knowledge or intent that the ~~money will be used by the~~ corporation use the donation for a political issues expenditure:

- (A) the name and address of the person; and
- (B) the amount donated by the person that was not included in a previous report.

- (c) The corporation need not file a statement under this section if [it] the corporation:
 - (i) made no political issues expenditures during the reporting period[:]; and
 - (ii) is not required, for the reporting period, to report the information described in Subsection (1)(b)(iii).

(d) A corporation does not, under Subsection (1)(b)(iii), know or have reason to know that a donation is made with the knowledge or intent that the corporation use the donation for a political issues expenditure, based solely on the fact that the corporation discloses that a portion of a donation or dues paid to the corporation is used for lobbying or political activities.

(2) That statement shall include:

- (a) the name and address of each individual, entity, or group of individuals or entities

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that received a political issues expenditure of more than \$50 from the corporation, and the amount of each political issues expenditure;

- (b) the total amount of political issues expenditures disbursed by the corporation; and
- (c) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the verified financial statement.