

HOUSE BILL NO. HB0002

Election law violations-penalties and enforcement.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to elections; modifying penalties imposed
2 upon persons failing to file campaign reports; providing
3 for the collection of delinquent civil penalties, interest
4 and other costs for failing to file campaign reports;
5 repealing criminal penalties for failing to file campaign
6 reports; modifying enforcement provisions for failing to
7 file campaign reports and other violations of the Election
8 Code; imposing duties on the secretary of state; and
9 providing for effective dates.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 22-25-108(a), (b) and by creating new
14 subsections (f) through (m) and 22-26-121 are amended to
15 read:

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2 **22-25-108. Failure of persons to file reports;**
3 **notice; penalties; reconsideration.**

4

5 (a) ~~Candidates~~ Any person required to file a report
6 under W.S. 22-25-106 shall be given notice prior to an
7 election, by the appropriate filing office specified under
8 W.S. 22-25-107, that failure to file, the report within the
9 time required, ~~a full and complete itemized statement of~~
10 ~~contributions if required pursuant to W.S. 22-25-107 and a~~
11 ~~statement of contributions and expenditures~~ by that section
12 shall subject the ~~candidate~~ person to civil penalties as
13 provided in subsection ~~(e)~~ (f) of this section. The notice
14 shall inform any candidate's campaign committee,
15 organization, political party or political action committee
16 that the officers responsible for filing the report shall
17 be subject to the same civil penalties as the candidate's
18 campaign committee, organization, political party or
19 political action committee for failure to file the report.

20

21 (b) ~~A candidate~~ Any person who fails to file ~~the~~
22 ~~statement of contributions required by the seventh day~~
23 ~~before the election~~ a report under W.S. 22-25-106 within

1 the time required by that section shall have ~~his~~their name
2 printed on a list drafted by the appropriate filing office.
3 ~~specified under W.S. 22-25-107.~~ The ~~list~~filing office
4 shall:

5
6 (i) Immediately ~~be posted~~ post the list in the
7 filing office and ~~made~~make the list available to the
8 public;~~-~~

9
10 (ii) Notify the person at their address of
11 record that the person has twenty-one (21) days from the
12 date the notice was sent to comply with W.S. 22-25-106 or
13 be subject to civil penalties as provided in subsection (f)
14 of this section.

15
16 (f) The appropriate filing office or the county
17 attorney, for reports required to be filed with the county
18 clerk, shall issue a final order imposing the civil penalty
19 specified in this subsection against any person failing to
20 comply with W.S. 22-25-106 twenty-one (21) days from the
21 date the notice was sent under subsection (b) of this
22 section. The final order shall be sent to the person at
23 their address of record and shall notify the person of the

1 right to request reconsideration of the order as provided
2 in subsection (h) of this section. The filing office or
3 county attorney shall impose the following civil penalty in
4 the final order:

5
6 (i) Five hundred dollars (\$500.00) for a failure
7 to file a report with the secretary of state;

8
9 (ii) Two hundred dollars (\$200.00) for a failure
10 to file a report with the county clerk.

11
12 (g) Any candidate required to file a report under
13 W.S. 22-25-106 who authorizes the candidate's campaign
14 committee to file on their behalf as provided by W.S.
15 22-25-106(j) shall be jointly and severally liable with the
16 candidate's campaign committee for any civil penalty
17 imposed under this section.

18
19 (h) Any person may, within twenty (20) days of the
20 date of a final order issued pursuant to subsection (f) of
21 this section, request reconsideration of the order and
22 submit documentation to the appropriate filing office or
23 county attorney showing good cause for a failure to file a

1 report. The filing office or county attorney may, after a
2 decision finding good cause, waive any civil penalty
3 imposed under this section provided that the person files
4 the report within the time specified in the decision. A
5 decision to not waive an imposed penalty by the secretary
6 of state is subject to the contested case procedures of the
7 Wyoming Administrative Procedure Act. A decision to not
8 wave an imposed penalty by the county attorney is
9 appealable to a circuit court of appropriate jurisdiction.

10
11 (j) A civil penalty imposed under this section shall
12 be paid within thirty (30) days of the date of the final
13 order issued pursuant to subsection (f) of this section or
14 the date of a decision denying reconsideration by the
15 appropriate filing office or county attorney, whichever is
16 later. Any penalty not paid within the time required by
17 this subsection is delinquent and shall bear interest at a
18 rate of eighteen percent (18%) per annum until paid or
19 collected, provided that no penalty is due and no interest
20 shall accrue during any period in which the penalty is
21 being reviewed by a court or during the pendency of a
22 contested case proceeding. The filing office for the state

1 shall notify the attorney general of a delinquent civil
2 penalty.

3
4 (k) A delinquent civil penalty may be recovered in an
5 action brought in the name of the state of Wyoming in any
6 court of appropriate jurisdiction. In addition to any other
7 remedy provided by law for the recovery of the penalty and
8 any interest thereon, the county attorney or the attorney
9 general, as appropriate, may recover any costs or damages
10 relating to the recovery effort including attorney's fees.
11 No filing fee shall be charged for the filing of an action
12 under this subsection nor shall a fee be charged for
13 service of process.

14
15 (m) Civil penalties and any interest thereon shall be
16 paid to the clerk of court with jurisdiction over the
17 matter for deposit to the public school fund of the county
18 in which the fine was assessed. Any recovered costs or
19 damages relating to the recovery effort shall be retained
20 by the county or the state, as appropriate.

21
22 **22-26-121. Violations of election code; complaints;**
23 **investigations and prosecutions.**

1

2 (a) ~~Any qualified elector aggrieved by~~ Except as
3 otherwise provided in this section, any person may file a
4 written complaint with the secretary of state regarding any
5 violation of the ~~Wyoming Election Code of 1973, as amended,~~
6 ~~may file a written complaint of the violation with the~~
7 ~~secretary of state or with the district attorney for the~~
8 ~~county in which the elector resides~~ by any statewide or
9 legislative candidate, committee or organization. If the
10 secretary of state ~~or the district attorney fails or~~
11 ~~refuses for any reason to take action on or prosecute the~~
12 ~~elector's complaint, the elector may file the complaint~~
13 ~~with~~ finds that the complaint has merit and suspects a
14 violation of the Election Code, he shall refer the
15 complaint to the Wyoming attorney general for investigation
16 and prosecution. ~~If~~ The attorney general ~~finds that the~~
17 ~~elector's complaint has merit, he~~ may prosecute the
18 complaint in the ~~appropriate courts of this state~~ district
19 court for the district in which the violation was alleged
20 to occur or in the district court for Laramie county if the
21 violation is reasonably believed to occur in more than one
22 (1) judicial district.

23

1 (b) ~~A chief election officer~~ Except as otherwise
2 provided in this section, any person may file a written
3 complaint with the ~~district attorney or attorney general~~
4 county clerk regarding any violation of the ~~Wyoming~~
5 Election Code ~~of 1973, as amended~~ by any county or
6 municipal candidate, committee or organization. If the
7 ~~attorney general~~ county clerk finds that the ~~election~~
8 ~~officer's~~ complaint has merit, ~~he may prosecute the~~
9 ~~complaint in the appropriate courts of this state and if~~
10 ~~the violation is reasonably believed to occur in more than~~
11 ~~one (1) district the complaint may be filed in the district~~
12 ~~court for Laramie county~~ and suspects a violation of the
13 Election Code, the county clerk shall refer the complaint
14 to the district attorney for the county in which the
15 candidate resides for investigation and prosecution.

16
17 (c) Complaints that the secretary of state violated
18 the Election Code shall be filed with the attorney general
19 for investigation and prosecution. Complaints that the
20 county clerk violated the Election Code shall be filed with
21 the district attorney for the county for investigation and
22 prosecution.

23

1 (d) The secretary of state or the county clerk may
2 refer any suspected violation of the Election Code to the
3 appropriate prosecuting authority as provided in this
4 section.

5
6 (e) As used in this section:

7
8 (i) "County or municipal candidate, committee or
9 organization" means any county or municipal candidate,
10 candidate committee for county or municipal office,
11 political action committee for county or municipal
12 candidate, political action committee or organization
13 supporting or opposing a municipal initiative or referendum
14 petition drive or ballot proposition within a county or
15 political subdivision or any other person not identified in
16 paragraph (ii) of this subsection;

17
18 (ii) "Statewide or legislative candidate,
19 committee or organization" means any statewide or
20 legislative candidate, candidate committee for statewide or
21 legislative office, political action committee or
22 organization supporting or opposing any statewide or
23 legislative candidate or any statewide initiative or

