

HOUSE BILL NO. HB0049

Election reporting requirements.

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

A BILL

for

1 AN ACT relating to elections; providing a definition of
2 organization; requiring organizations to file a statement
3 of formation for the purpose of reporting political
4 expenditures as specified; increasing threshold for and
5 independent expenditure or electioneering communication
6 requiring an itemized statement; increasing and adding
7 penalties for failure to file as specified; making
8 conforming amendments; repealing a provision; adding a
9 penalty of perjury; and providing for an effective date.

10

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

12

13 **Section 1.** W.S. 22-25-101 by creating a new
14 subsection (c), by renumbering (c) as (d) and by creating a
15 new paragraph (iv), 22-25-102(a), (e), (f), (h) and

1 (k)(intro), 22-25-106(a)(iv), (h)(intro), (vi) and by
2 creating a new subsection (k), 22-25-107(a)(i) and
3 22-25-108(a) and (f) are amended to read:

4

5 **22-25-101. Definitions; statement of formation.**

6

7 (c) Any organization that receives contributions or
8 expends funds in excess of one thousand dollars
9 (\$1,000.00) for the purpose of causing an independent
10 expenditure or electioneering communication to be made
11 shall file a statement of formation for the purpose of
12 reporting political expenditures. The statement shall be
13 filed in those offices as provided by W.S. 22-25-107 and:

14

15 (i) The statement of formation for the purpose
16 of reporting political expenditures shall list the:

17

18 (A) Name and mailing address of the
19 organization;

20

21 (B) Name and mailing address of the
22 organization chairman and treasurer, if applicable, or the
23 organization's designee;

1

2

(C) Date the organization formed; and

3

4

(D) Purpose of the organization.

5

6

(ii) Any organization supporting or opposing any initiative or referendum petition drive or any ballot proposition shall file a statement of formation for the purpose of reporting political expenditures within ten (10) days of receiving or expending any funds for the purpose of supporting or opposing any initiative or referendum petition drive or any ballot proposition;

13

14

(iii) Any organization that causes or intends to cause an independent expenditure or electioneering communication to be made in any primary, general or special election shall file a statement of formation for the purpose of reporting political expenditures within ten (10) days of making the independent expenditure or electioneering communication. If an organization has not filed a statement of formation for the purpose of reporting political expenditures and causes an independent expenditure or electioneering communication to be made

23

1 within ten (10) days of any primary, general or special
2 election, the organization shall file a statement of
3 formation for the purpose of reporting political
4 expenditures within twenty-four (24) hours of making the
5 independent expenditure or electioneering communication.

6

7 ~~(e)~~(d) As used in this chapter:

8

9 (i) "Electioneering communication" means, except
10 as otherwise provided by paragraph (ii) of this subsection,
11 any communication, including an advertisement, which is
12 publicly distributed as a billboard, brochure, email,
13 mailing, magazine, pamphlet or periodical, as the component
14 of an internet website or newspaper or by the facilities of
15 a cable television system, electronic communication
16 network, internet streaming service, radio station,
17 telephone or cellular system, television station or
18 satellite system and which:

19

20 (A) Refers to or depicts a clearly
21 identified candidate for nomination or election to public
22 office or a clearly identified ballot proposition and which
23 does not expressly advocate the nomination, election or

1 defeat of the candidate or the adoption or defeat of the
2 ballot proposition;

3

4 (B) Can only be reasonably interpreted as
5 an appeal to vote for or against the candidate or ballot
6 proposition;

7

8 (C) Is made within thirty (30) calendar
9 days of a primary election, sixty (60) calendar days of a
10 general election or twenty-one (21) calendar days of any
11 special election during which the candidate or ballot
12 proposition will appear on the ballot; and

13

14 (D) Is targeted to the electors in the
15 geographic area:

16

17 (I) The candidate would represent if
18 elected; or

19

20 (II) Affected by the ballot
21 proposition.

22

1 (ii) "Electioneering communication" does not
2 mean:

3

4 (A) A communication made by an entity as a
5 component of a newsletter or other internal communication
6 of the entity which is distributed only to members or
7 employees of the entity;

8

9 (B) A communication consisting of a news
10 report, commentary or editorial or a similar communication,
11 protected by the first amendment to the United States
12 constitution and article 1, section 20 of the Wyoming
13 constitution, which is distributed as a component of an
14 email, internet website, magazine, newspaper or periodical
15 or by the facilities of a cable television system,
16 electronic communication network, internet streaming
17 service, radio station, television station or satellite
18 system;

19

20 (C) A communication made as part of a
21 public debate or forum that invites at least two (2)
22 opposing candidates for public office or one (1) advocate
23 and one (1) opponent of a ballot proposition or a

1 communication that promotes the debate or forum and is made
2 by or on behalf of the person sponsoring or hosting the
3 debate or forum;

4

5 (D) The act of producing or distributing an
6 electioneering communication.

7

8 (iii) "Independent expenditure" means an
9 expenditure that is made without consultation or
10 coordination with a candidate, candidate's campaign
11 committee or the agent of a candidate or candidate's
12 campaign committee and which expressly advocates the:

13

14 (A) Nomination, election or defeat of a
15 candidate; or

16

17 (B) ~~Adoption or defeat of a ballot~~
18 ~~proposition.~~

19

20 (iv) "Organization" means any corporation,
21 partnership, trade union, professional association or
22 civic, fraternal or religious group or other profit or
23 nonprofit entity or any other entity influencing an

1 election, except a candidate's campaign committee,
2 political action committee or political party.

3

4 **22-25-102. Contribution of funds or election**
5 **assistance restricted; limitation on contributions; right**
6 **to communicate; civil penalty.**

7

8 (a) Except as otherwise provided in this section, no
9 organization, ~~of any kind including a corporation,~~
10 ~~partnership, trade union, professional association or~~
11 ~~civic, fraternal or religious group or other profit or~~
12 ~~nonprofit entity except a political party, political action~~
13 ~~committee or candidate's campaign committee organized under~~
14 ~~W.S. 22-25-101,~~ directly or indirectly through any officer,
15 member, director or employee, shall contribute funds, other
16 items of value or election assistance directly to any
17 candidate or candidate's campaign committee or to any
18 political party or political action committee which
19 directly coordinates with a candidate or a candidate's
20 campaign committee. The secretary of state shall promulgate
21 rules to define direct coordination as prohibited by this
22 section. No person shall solicit or receive a payment or

1 contribution from an organization prohibited from making
2 contributions under this subsection.

3

4 (e) Any ~~corporation,~~ person, political party,
5 political action committee, candidate's campaign committee
6 or organization violating the provisions of subsection (a),
7 (b), (c), (j), (m) or (n) of this section is subject to a
8 civil penalty up to five thousand dollars (\$5,000.00) and
9 costs including a reasonable attorney's fee for a first
10 violation and up to ten thousand dollars (\$10,000.00) and
11 costs including a reasonable attorney's fee for a second or
12 subsequent violation which shall be imposed in a court of
13 competent jurisdiction. The amount of penalty imposed shall
14 be in such amount as will deter future actions of a similar
15 nature. An action to impose the civil penalty may be
16 prosecuted by and in the name of any candidate adversely
17 affected by the transgression, any political party, any
18 county attorney, any district attorney or the attorney
19 general. Proceeds of the penalty collected shall be paid
20 to the state treasurer and credited as provided in W.S.
21 8-1-109.

22

1 (f) Direct contributions from any ~~organization~~entity
2 affiliated with a political party do not violate subsection
3 (a) of this section. These contributions shall be a matter
4 of internal party governance. Contributions to political
5 parties are not subject to the limits of subsection (c) of
6 this section provided the contributions are available to
7 use as the appropriate party authorities choose and are not
8 exclusively dedicated to any particular candidate.
9 Contributions donated to a political party which are
10 designated by the donor to be used only for a particular
11 candidate and no other purpose are subject to the
12 limitations of subsection (c) and of this section.

13

14 (h) No organization, ~~of any kind, as specified in~~
15 ~~subsection (a) of this section,~~ political party, political
16 action committee or candidate's campaign committee shall
17 solicit or obtain contributions for any of the purposes
18 specified in subsection (a) of this section from an
19 individual on an automatic basis, including but not limited
20 to a payroll deduction plan or reverse checkoff method,
21 unless the individual who is contributing affirmatively
22 consents in writing to the contribution. Nothing in this

1 subsection shall be construed to authorize contributions
2 otherwise prohibited under this election code.

3

4 (k) The prohibitions in this section shall not be
5 construed to prohibit any organization ~~of any kind~~
6 ~~including a corporation, partnership, trade union,~~
7 ~~professional association or civic, fraternal or religious~~
8 ~~group or other profit or nonprofit entity~~ from:

9

10 **22-25-106. Filing of campaign reports.**

11

12 (a) Except as otherwise provided in subsections (g)
13 and (j) of this section and in addition to other reports
14 required by this subsection:

15

16 (iv) Reports under this subsection shall set
17 forth the full and complete record of contributions
18 including cash, goods or services and actual and promised
19 expenditures, including all identifiable expenses as set
20 forth in W.S. 22-25-103. For purposes of this section, a
21 contribution is reportable when it is known and in the
22 possession of, or the service has been furnished to, the
23 person or ~~organization~~entity required to submit a

1 statement of contributions and expenditures. The date of
2 each contribution of one hundred dollars (\$100.00) or more,
3 any expenditure or obligation, the name of the person from
4 whom received or to whom paid and the purpose of each
5 expenditure or obligation shall be listed. All
6 contributions under one hundred dollars (\$100.00) shall be
7 reported but need not be itemized. Should the accumulation
8 of contributions from a person exceed the one hundred
9 dollar (\$100.00) threshold, all contributions from that
10 person shall be itemized. Contributions, expenditures and
11 obligations itemized in a statement filed by a political
12 action committee, a candidate's campaign committee or by a
13 political party central committee need not be itemized in a
14 candidate's statement;

15

16 (h) An organization that expends in excess of ~~five~~
17 ~~hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00)
18 in any primary, general or special election to cause an
19 independent expenditure or electioneering communication to
20 be made shall file an itemized statement of contributions
21 and expenditures with the appropriate filing office under
22 W.S. 22-25-107. The statement shall:

23

1 (vi) Be signed by both the chairman and
2 treasurer of the organization, if those positions are
3 present in the organization, or by the ~~person who caused~~
4 ~~the independent expenditure or electioneering communication~~
5 ~~to be made~~ organization's designee.

6
7 (k) Reports or statements filed under this section
8 shall be filed under penalty of perjury.

9
10 **22-25-107. Where reports to be filed.**

11
12 (a) All reports required under this chapter shall be
13 filed as follows:

14
15 (i) Any candidate for a municipal, county,
16 judicial, school or college board office and any political
17 action committee or candidate's campaign committee
18 supporting such a candidate and any political action
19 committee or organization supporting or opposing a
20 municipal initiative or referendum or ballot proposition
21 within the county, or any organization that causes an
22 independent expenditure or electioneering communication to

1 be made within the county, shall file with the county
2 clerk;

3

4 **22-25-108. Failure of persons to file reports;**
5 **notice; penalties; reconsideration.**

6

7 (a) Any person required to file a report or statement
8 under W.S. 22-25-101 or 22-25-106 shall be given notice
9 prior to an election, by the appropriate filing office
10 specified under W.S. 22-25-107, that failure to file the
11 report or statement within the time required by that
12 section shall subject the person to civil penalties as
13 provided in subsection (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 or
17 statement shall be subject to the same civil penalties as
18 the candidate's campaign committee, organization, political
19 party or political action committee for failure to file the
20 report or statement.

21

22 (f) The appropriate filing office or the county
23 attorney, for reports or statements required to be filed

1 with the county clerk, shall issue a final order imposing
2 the civil penalty specified in this subsection against any
3 person failing to comply with W.S. 22-25-106 twenty-one
4 (21) days from the date the notice was sent under
5 subsection (b) of this section. The final order shall be
6 sent to the person at their address of record and shall
7 notify the person of the right to request reconsideration
8 of the order as provided in subsection (h) of this section.
9 The filing office or county attorney shall impose the
10 following civil penalty in the final order:

11

12 (i) Five hundred dollars (\$500.00) per day
13 beginning on the date of the final order and ending when
14 the report or statement is filed for a failure to file a
15 report or statement with the secretary of state;

16

17 (ii) Two hundred dollars (\$200.00) per day
18 beginning on the date of the final order and ending when
19 the report or statement is filed for a failure to file a
20 report or statement with the county clerk.

21

22 **Section 2.** W.S. 22-25-101(c)(iii)(B) renumbered by
23 this act as 22-25-101(d)(iii)(B) is repealed.

