

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:

1
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 fourteen (14) days after receipt
12 of the notice to comply with W.S. 22-25-106 or be subject
13 to civil penalties as provided in subsection (f) of this
14 section.

15
16 (f) The appropriate filing office shall issue a final
17 order imposing the civil penalty specified in this
18 subsection against any person failing to comply with W.S.
19 22-25-106 fourteen (14) days after receipt of the notice
20 required by subsection (b) of this section. The final
21 order shall be sent to the person at their address of
22 record and shall notify the person of the right to request
23 reconsideration of the order as provided in subsection (h)

1 of this section. The filing office shall impose the
2 following civil penalty in the final order:

3
4 (i) Five hundred dollars (\$500.00) for a failure
5 to file a report with the secretary of state;

6
7 (ii) Two hundred dollars (\$200.00) for a failure
8 to file a report with the county clerk.

9
10 (g) Any candidate required to file a report under
11 W.S. 22-25-106 who authorizes the candidate's campaign
12 committee to file on their behalf as provided by W.S.
13 22-25-106(j) shall be jointly and severally liable with the
14 candidate's campaign committee for any civil penalty
15 imposed under this section.

16
17 (h) Any person may, within twenty (20) days of the
18 date of a final order issued pursuant to subsection (f) of
19 this section, request reconsideration of the order and
20 submit documentation to the appropriate filing office
21 showing good cause for a failure to file a report. The
22 filing office may, after a decision finding good cause,
23 waive any civil penalty imposed under this section provided

1 that the person files the report within the time specified
2 in the decision. A decision to not waive an imposed
3 penalty by the secretary of state is subject to the
4 contested case procedures of the Wyoming Administrative
5 Procedure Act. A decision to not waive an imposed penalty
6 by the county clerk is appealable to a circuit court of
7 appropriate jurisdiction.

8
9 (j) A civil penalty imposed under this section shall
10 be paid within thirty (30) days of the date of the final
11 order issued pursuant to subsection (f) of this section or
12 the date of a decision denying reconsideration by the
13 appropriate filing office, whichever is later. Any penalty
14 not paid within the time required by this subsection is
15 delinquent and shall bear interest at a rate of eighteen
16 percent (18%) per annum until paid or collected, provided
17 that no penalty is due and no interest shall accrue during
18 any period in which the penalty is being reviewed by a
19 court or during the pendency of a contested case
20 proceeding. The filing office shall notify the district
21 attorney or the attorney general, as appropriate, of a
22 delinquent civil penalty.

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

11
12 (m) Civil penalties and any interest thereon shall be
13 paid to the clerk of court with jurisdiction over the
14 matter for deposit to the public school fund of the county
15 in which the fine was assessed. Any recovered costs or
16 damages relating to the recovery effort shall be retained
17 by the county or the state, as appropriate.

18
19 **22-26-121. Violations of election code; complaints;**
20 **investigations and prosecutions.**

21
22 (a) ~~Any qualified elector aggrieved by~~ Except as
23 otherwise provided in this section, any person may file a

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

20
21 (b) ~~A chief election officer~~ Except as otherwise
22 provided in this section, any person may file a written
23 complaint with the ~~district attorney or attorney general~~

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

13
14 (c) Complaints that the secretary of state violated
15 the Election Code shall be filed with the attorney general
16 for investigation and prosecution. Complaints that the
17 county clerk violated the Election Code shall be filed with
18 the district attorney for the county for investigation and
19 prosecution.

20
21 (d) The secretary of state or the county clerk may
22 refer any suspected violation of the Election Code to the

1 appropriate prosecuting authority as provided in this
2 section.

3
4 (e) As used in this section:

5
6 (i) "County or municipal candidate, committee or
7 organization" means any county or municipal candidate,
8 candidate committee for county or municipal office,
9 political action committee for county or municipal
10 candidate, political action committee or organization
11 supporting or opposing a municipal initiative or referendum
12 petition drive or ballot proposition within a county or
13 political subdivision or any other person not identified in
14 paragraph (ii) of this subsection;

15
16 (ii) "Statewide or legislative candidate,
17 committee or organization" means any statewide or
18 legislative candidate, candidate committee for statewide or
19 legislative office, political action committee or
20 organization supporting or opposing any statewide or
21 legislative candidate or any statewide initiative or
22 referendum petition drive or ballot proposition, or state
23 or county party central committee.

