

ELECTION LAW - TECHNICAL AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Robert M. Muhlestein

AN ACT RELATING TO ELECTIONS; MODIFYING REQUIREMENTS FOR THE APPOINTMENT OF ELECTION JUDGES FOR LOCAL ELECTIONS; CLARIFYING PROHIBITIONS AGAINST RUNNING FOR MULTIPLE OFFICES; ELIMINATING OBSOLETE REPORTING REQUIREMENTS; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-5-101, as last amended by Chapter 24, Laws of Utah 1997

20A-5-602, as last amended by Chapter 130, Laws of Utah 1997

20A-9-201, as last amended by Chapters 139 and 355, Laws of Utah 1997

20A-11-602, as last amended by Chapter 355, Laws of Utah 1997

20A-11-701, as last amended by Chapter 355, Laws of Utah 1997

20A-11-802, as last amended by Chapter 355, Laws of Utah 1997

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

Section 1. Section **20A-5-101** is amended to read:

20A-5-101. Notice of election.

(1) On or before February 1 in each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

- (a) designates the offices to be filled at the regular general election;
- (b) identifies the dates for filing a declaration of candidacy for those offices; and
- (c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) No later than February 10, each county clerk shall:

(a) publish a list of the offices that will be voted on in that election in that county once in a newspaper published in that county; or

- (b) if no newspaper is published in that county:
 - (i) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and
 - (ii) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.
- (3) Before each election, the election officer shall give written or printed notice of:
 - (a) the date and place of election;
 - (b) the hours during which the polls will be open;
 - (c) the polling places for each voting precinct; and
 - (d) the qualifications for persons to vote in the election.
- (4) To provide the notice required by Subsection [~~(2)~~] (3), the election officer shall publish the notice at least two days before the election in a newspaper of general circulation common to the area or in which the election is being held.

Section 2. Section **20A-5-602** is amended to read:

20A-5-602. Election judges -- Appointment for local elections.

- (1) At least 15 days before the date scheduled for any local election, the municipal legislative body or special district board shall appoint or provide for the appointment of:
 - (a) in jurisdictions using paper ballots:
 - (i) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as election judges for each voting precinct when the ballots will be counted after the polls close; or
 - (ii) three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as receiving judges in each voting precinct and three registered voters, or two registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as counting judges in each voting precinct when ballots will be counted throughout election day;
 - (b) in jurisdictions using automated tabulating equipment, three registered voters, or two

registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as election judges for each voting precinct;

(c) in jurisdictions using voting machines, four registered voters, or three registered voters and one person 17 years old who will be 18 years old by the date of the regular municipal election, from their jurisdiction to serve as election judges for each voting precinct; and

(d) in all jurisdictions:

(i) at least one registered voter from their jurisdiction to serve as canvassing judge, if necessary; and

(ii) as many alternate judges as needed to replace appointed judges who are unable to serve.

(2) The municipal legislative body and special district board may not appoint any candidate's parent, sibling, spouse, child, or in-law to serve as an election judge in the voting precinct where the candidate resides.

(3) The clerk shall:

(a) prepare and file a list containing the name, address, voting precinct, and telephone number of each person appointed; and

(b) make the list available in the clerk's office for inspection, examination, and copying during business hours.

(4) (a) The municipal legislative body and special district board shall compensate election judges for their services.

(b) The municipal legislative body and special district board may not compensate their election judges at a rate higher than that paid by the county to its election judges.

Section 3. Section **20A-9-201** is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office prohibited -- General filing and form requirements.

(1) Before filing a declaration of candidacy for election to any office, a person shall:

(a) be a United States citizen; and

(b) meet the legal requirements of that office.

(2) A person may not file a declaration of candidacy for, or be a candidate for, more than one

[elective] office during any election year.

(3) If the final date established for filing a declaration of candidacy is a Saturday or Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

(4) (a) (i) Before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which he is seeking office; and

(D) a current resident of the county in which he is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which he is seeking office; and

(D) a current resident of the prosecution district in which he is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(b) If the prospective candidate states that he does not meet the qualification requirements for the office, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate states that he meets the requirements of candidacy, the filing officer shall:

(i) accept the candidate's declaration of candidacy; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

(5) The form of the declaration of candidacy shall be substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ as a candidate for the ____ party. I do solemnly swear that: I can qualify to hold that office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law governing campaigns and elections; and I will qualify for the office if elected to it. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this ____ day of _____, 19__.

Notary Public (or other officer qualified to administer oath.)"

(6) (a) The fee for filing a declaration of candidacy is:

(i) \$25 for candidates for the local school district board; and

(ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office, but not less than \$5, for all other federal, state, and county offices.

(b) The filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) Each person who is unable to pay the filing fee may file a declaration of candidacy without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer.

(ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____ Address _____

Phone Number _____

I, _____ (name), do solemnly [swear] [affirm] that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____ Affiant

Subscribed and sworn to before me on _____ (date)

(signature)

Name and Title of Officer Authorized to Administer Oath:"

(7) Any person who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

Section 4. 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 made expenditures that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant

governor's office on:

(i) January 5, reporting contributions and expenditures as of December 31 of the previous year;

(ii) September 15; and

(iii) seven days before the regular general election.

(b) The registered political action committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for financial statements filed on September 15 and before the [~~primary and~~] general [~~elections~~] election, all contributions and expenditures as of three 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, address, and occupation of any individual that makes a contribution to the reporting political action committee, 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, and the amount of the contribution;

(iii) the name and address of any political action committee, group, or entity 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 paragraph signed by the political action committee's treasurer or chief financial officer verifying that, to the best of the signer'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 \$150 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 more than \$150 may not be reported in the aggregate, but shall be reported separately.

Section 5. Section **20A-11-701** is amended to read:

20A-11-701. Campaign financial reporting of candidate campaign contributions 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 on:

- (i) January 5, reporting expenditures as of December 31 of the previous year;
- (ii) September 15; and
- (iii) seven days before the regular general election.

(b) The corporation shall report:

- (i) a detailed listing of all expenditures made since the last statement; and
- (ii) for financial statements filed on September 15 and before the [~~primary and~~] general [~~elections~~] election, all expenditures as of three days before the required filing date of the financial statement.

(c) The corporation need not file a statement under this section if it made no expenditures during the reporting period.

(2) That 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 paragraph signed by the corporation's or the political action committee's treasurer or chief financial officer verifying the accuracy of the financial report.

Section 6. Section **20A-11-802** is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee 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 on:

(i) January 5, reporting contributions and expenditures as of December 31 of the previous year;

(ii) September 15; and

(iii) seven days before the regular general election.

(b) The political issues committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for financial statements filed on September 15 and before the [~~primary and~~] general [~~elections~~] election, all contributions and expenditures as of three days before the required filing date of the financial statement.

(c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) That statement shall include:

(i) the name, address, and occupation of any individual that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iii) the name and address of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the reporting political issues committee, and the amount of each political issues expenditure;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;

(ix) a paragraph signed by the political issues committee's treasurer or chief financial officer verifying that, to the best of the signer's knowledge, the financial statement is accurate; and

(x) 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) Political issues contributions received by a political issues 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 political issues contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.