

1 **CAMPAIGN FINANCE FILING**

2 **REQUIREMENTS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gregory H. Hughes**

6 Senate Sponsor: Sheldon L. Killpack

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Election Code, the Utah Municipal Code, and provisions related
11 to counties in order to amend certain requirements for compliance with election-related
12 financial reporting provisions.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ requires strict compliance for filing deadlines when a petition is brought to the
16 district court regarding compliance with campaign and judicial retention election
17 finance reporting provisions;

18 ▶ requires the election filing officer to provide each person that files a valid
19 declaration of candidacy with a copy of current campaign financial disclosure laws
20 and to inform the person that failure to comply will result in disqualification as a
21 candidate and removal of the person's name from the ballot;

22 ▶ requires the person filing, in the declaration of candidacy, to promise to file all
23 financial disclosure reports as required by law and to acknowledge that failure to do
24 so will result in the person's disqualification for the office and removal of the
25 person's name from the ballot; and

26 ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 This bill provides an immediate effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **20A-1-404**, as enacted by Laws of Utah 1993, Chapter 1

34 **20A-9-201**, as last amended by Laws of Utah 2007, Chapters 83, and 97

35 **20A-9-203**, as last amended by Laws of Utah 2007, Chapters 83, 97, and 256



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

38 Section 1. Section **20A-1-404** is amended to read:

39 **20A-1-404. Election controversies.**

40 (1) (a) (i) Whenever any controversy occurs between any election officer or other
41 person or entity charged with any duty or function under this title and any candidate, or the
42 officers or representatives of any political party, or persons who have made nominations, either
43 party to the controversy may file a verified petition with the district court.

44 (ii) If a petition is filed, the petitioner shall serve a copy of the petition on the
45 respondents on the same day that the petition is filed with the court.

46 (b) The verified petition shall identify concisely the nature of the controversy and the
47 relief sought.

48 (2) After reviewing the petition, the court shall:

49 (a) issue an order commanding the respondent named in the petition to appear before
50 the court to answer, under oath, to the petition;

51 (b) summarily hear and dispose of any issues raised by the petition to obtain:

52 (i) strict compliance with all filing deadlines for financial disclosure reports under:

53 (A) Section 10-3-208, regarding campaign finance statements in municipal elections;

54 (B) Section 17-16-6.5, regarding campaign finance statements for county offices;

55 (C) Title 20A, Chapter 11, Part 2, State Office Candidates - Campaign Organization
56 and Financial Reporting Requirements;

57 (D) Title 20A, Chapter 11, Part 3, Candidates for Legislative Office - Campaign
58 Organization and Financial Reporting Requirements;

59 (E) Title 20A, Chapter 11, Part 4, Officeholder Financial Reporting Requirements;

60 (F) Title 20A, Chapter 11, Part 5, Political Party Registration and Financial Reporting
61 Requirements;

62 (G) Title 20A, Chapter 11, Part 6, Political Action Committee Registration and
63 Financial Reporting Requirements;

64 (H) Title 20A, Chapter 11, Part 7, Campaign Financial Reporting by Corporations;

65 (I) Title 20A, Chapter 11, Part 8, Political Issues Committees - Registration and
66 Financial Reporting;

67 (J) Title 20A, Chapter 11, Part 13, State and Local School Board Candidates; and

68 (K) Title 20A, Chapter 12, Part 3, Campaign and Financial Reporting Requirements for
69 Judicial Retention Elections; and

70 (ii) substantial compliance with [the] all other provisions of this title by the parties to
71 the controversy; and

72 (c) make and enter orders and judgments, and issue the process of the court to enforce
73 all of those orders and judgments.

74 Section 2. Section **20A-9-201** is amended to read:

75 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
76 **more than one political party prohibited with exceptions -- General filing and form**
77 **requirements.**

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

79 (a) be a United States citizen; and

80 (b) meet the legal requirements of that office.

81 (2) (a) Except as provided in Subsection (2)(b), a person may not:

82 (i) file a declaration of candidacy for, or be a candidate for, more than one office in
83 Utah during any election year; or

84 (ii) appear on the ballot as the candidate of more than one political party.

85 (b) A person may file a declaration of candidacy for, or be a candidate for, President or
86 Vice President of the United States and another office, if the person resigns the person's
87 candidacy for the other office after the person is officially nominated for President or Vice
88 President of the United States.

89 (3) If the final date established for filing a declaration of candidacy is a Saturday or

90 Sunday, the filing time shall be extended until 5 p.m. on the following business day.

91 (4) (a) (i) Except for presidential candidates, before the filing officer may accept any
92 declaration of candidacy, the filing officer shall:

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

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

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

99 (A) a United States citizen;

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

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

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

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

109 (A) a United States citizen;

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

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

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

117 (iv) Before accepting a declaration of candidacy for the office of county sheriff, the
118 county clerk shall ensure that the person filing the declaration of candidacy:

119 (A) as of the date of filing:

120 (I) is a United States citizen;

121 (II) is a registered voter in the county in which the person seeks office;
122 (III) (Aa) has successfully met the standards and training requirements established for
123 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and
124 Certification Act; or

125 (Bb) has passed a certification examination as provided in Section 53-6-206; and

126 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
127 53-13-103; and

128 (B) as of the date of the election, shall have been a resident of the county in which the
129 person seeks office for at least one year.

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

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

135 (i) inform the candidate that the candidate's name will appear on the ballot as it is
136 written on the declaration of candidacy;

137 (ii) provide the candidate with a copy of the current campaign financial disclosure laws
138 for the office the candidate is seeking and inform the candidate that failure to comply will
139 result in disqualification as a candidate and removal of the candidate's name from the ballot;

140 [~~(ii)~~] (iii) provide the candidate with a copy of Section 20A-7-801 regarding the
141 Statewide Electronic Voter Information Website Program and inform the candidate of the
142 submission deadline under Subsection 20A-7-801(4)(a);

143 [~~(iii)~~] (iv) provide the candidate with a copy of the pledge of fair campaign practices
144 described under Section 20A-9-206 and inform the candidate that:

145 (A) signing the pledge is voluntary; and

146 (B) signed pledges shall be filed with the filing officer;

147 [~~(iv)~~] (v) accept the candidate's declaration of candidacy; and

148 [~~(v)~~] (vi) if the candidate has filed for a partisan office, provide a certified copy of the
149 declaration of candidacy to the chair of the county or state political party of which the
150 candidate is a member.

151 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing

152 officer shall:

153 (i) accept the candidate's pledge; and

154 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
155 candidate's pledge to the chair of the county or state political party of which the candidate is a
156 member.

157 (5) Except for presidential candidates, the form of the declaration of candidacy shall be
158 substantially as follows:

159 "State of Utah, County of ____

160 I, _____, declare my intention of becoming a candidate for the office of
161 ____ as a candidate for the ____ party. I do solemnly swear that: I [~~can qualify~~] will meet the
162 qualifications to hold [~~that~~] the office, both legally and constitutionally, if selected; I reside at
163 _____ in the City or Town of _____, Utah, Zip Code ____ Phone No. ____; I will not
164 knowingly violate any law governing campaigns and elections; [~~and I will qualify for the office~~
165 ~~if elected to it.~~] I will file all campaign financial disclosure reports as required by law and I
166 understand that failure to do so will result in my disqualification as a candidate for this office
167 and removal of my name from the ballot. The mailing address that I designate for receiving
168 official election notices is _____.

169 _____

170 Subscribed and sworn before me this _____(month\day\year).

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

172 (6) (a) Except for presidential candidates, the fee for filing a declaration of candidacy
173 is:

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

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

177 (b) Except for presidential candidates, the filing officer shall refund the filing fee to
178 any candidate:

179 (i) who is disqualified; or

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

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

183 (ii) The lieutenant governor shall:

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

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

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

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

195 "Affidavit of Impecuniosity

196 Individual Name _____

197 _____ Address _____

198 Phone Number _____

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

201 Date _____ Signature _____

202 Affiant

203 Subscribed and sworn to before me on _____ (month\day\year)

(signature)

206 Name and Title of Officer Authorized to Administer Oath _____"

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

209 (8) A declaration of candidacy filed under this section may not be amended or
210 modified after the final date established for filing a declaration of candidacy.

211 Section 3. Section **20A-9-203** is amended to read:

212 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

213 (1) (a) A person may become a candidate for any municipal office if the person is a

214 registered voter and:

215 (i) the person has resided within the municipality in which that person seeks to hold
216 elective office for the 12 consecutive months immediately before the date of the election; or

217 (ii) if the territory in which the person resides was annexed into the municipality, the
218 person has resided within the annexed territory or the municipality for 12 months.

219 (b) In addition to the requirements of Subsection (1)(a), candidates for a municipal
220 council position under the council-mayor or council-manager alternative forms of municipal
221 government shall, if elected from districts, be residents of the council district from which they
222 are elected.

223 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally
224 incompetent person, any person convicted of a felony, or any person convicted of treason or a
225 crime against the elective franchise may not hold office in this state until the right to hold
226 elective office is restored under Section 20A-2-101.5.

227 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to
228 become a candidate for a municipal office shall:

229 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during
230 office hours and not later than 5 p.m. between July 1 and July 15 of any odd numbered year;
231 and

232 (ii) pay the filing fee, if one is required by municipal ordinance.

233 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of
234 persons registered to vote in the municipality on the January 1 of the municipal election year.

235 (ii) A third, fourth, or fifth class city that used the convention system to nominate
236 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
237 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
238 convention system to nominate candidates in the last municipal election as authorized by
239 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
240 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
241 for municipal office file a nominating petition signed by a percentage of registered voters at the
242 same time that the candidate files a declaration of candidacy.

243 (iii) The ordinance shall specify the number of signatures that the candidate must
244 obtain on the nominating petition in order to become a candidate for municipal office under

245 this Subsection (2), but that number may not exceed 5% of registered voters.

246 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

247 (i) filing a nomination petition with the city recorder or town clerk during office hours,
248 but not later than 5 p.m., between July 1 and July 15 of any odd-numbered year; and

249 (ii) paying the filing fee, if one is required by municipal ordinance.

250 (d) When July 15 is a Saturday, Sunday, or holiday, the filing time shall be extended
251 until 5 p.m. on the following regular business day.

252 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
253 petition, the filing officer shall:

254 (i) read to the prospective candidate or person filing the petition the constitutional and
255 statutory qualification requirements for the office that the candidate is seeking; and

256 (ii) require the candidate or person filing the petition to state whether or not the
257 candidate meets those requirements.

258 (b) If the prospective candidate does not meet the qualification requirements for the
259 office, the filing officer may not accept the declaration of candidacy or nomination petition.

260 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
261 filing officer shall:

262 (i) inform the candidate that the candidate's name will appear on the ballot as it is
263 written on the declaration of candidacy;

264 (ii) provide the candidate with a copy of the current campaign financial disclosure laws
265 for the office the candidate is seeking and inform the candidate that failure to comply will
266 result in disqualification as a candidate and removal of the candidate's name from the ballot;

267 ~~[(ii)]~~ (iii) provide the candidate with a copy of Section 20A-7-801 regarding the
268 Statewide Electronic Voter Information Website Program and inform the candidate of the
269 submission deadline under Subsection 20A-7-801(4)(a);

270 ~~[(iii)]~~ (iv) provide the candidate with a copy of the pledge of fair campaign practices
271 described under Section 20A-9-206 and inform the candidate that:

272 (A) signing the pledge is voluntary; and

273 (B) signed pledges shall be filed with the filing officer; and

274 ~~[(iv)]~~ (v) accept the declaration of candidacy or nomination petition.

275 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing

276 officer shall:

277 (i) accept the candidate's pledge; and

278 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
279 candidate's pledge to the chair of the county or state political party of which the candidate is a
280 member.

281 (4) The declaration of candidacy shall substantially comply with the following form:

282 "I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____,
283 County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a
284 registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet
285 the legal qualifications required of candidates for this office. I will file all campaign financial
286 disclosure reports as required by law and I understand that failure to do so will result in my
287 disqualification as a candidate for this office and removal of my name from the ballot. I

288 request that my name be printed upon the applicable official ballots. (Signed)

289 _____

290 Subscribed and sworn to (or affirmed) before me by _____ on this

291 _____(month\day\year).

292 (Signed) _____ (Clerk or other officer qualified to administer oath)"

293 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that
294 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not
295 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
296 for municipal office by submitting a petition signed by:

297 (i) 25 residents of the municipality who are at least 18 years old; or

298 (ii) 20% of the residents of the municipality who are at least 18 years old.

299 (b) (i) The petition shall substantially conform to the following form:

300 "NOMINATION PETITION

301 The undersigned residents of (name of municipality) being 18 years old or older
302 nominate (name of nominee) to the office of _____ for the (two or four-year term, whichever is
303 applicable)."

304 (ii) The remainder of the petition shall contain lines and columns for the signatures of
305 persons signing the petition and their addresses and telephone numbers.

306 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized

307 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
308 (2)(b), any registered voter may be nominated for municipal office by submitting a petition
309 signed by the same percentage of registered voters in the municipality as required by the
310 ordinance passed under authority of Subsection (2)(b).

311 (b) (i) The petition shall substantially conform to the following form:

312 "NOMINATION PETITION

313 The undersigned residents of (name of municipality) being 18 years old or older
314 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
315 whichever is applicable)."

316 (ii) The remainder of the petition shall contain lines and columns for the signatures of
317 persons signing the petition and their addresses and telephone numbers.

318 (7) If the declaration of candidacy or nomination petition fails to state whether the
319 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
320 the four-year term.

321 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
322 voters.

323 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
324 print the candidate's name on the ballot.

325 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
326 clerk shall:

327 (a) cause the names of the candidates as they will appear on the ballot to be published
328 in at least two successive publications of a newspaper with general circulation in the
329 municipality; and

330 (b) notify the lieutenant governor of the names of the candidates as they will appear on
331 the ballot.

332 (10) A declaration of candidacy or nomination petition filed under this section may not
333 be amended after the expiration of the period for filing a declaration of candidacy.

334 (11) (a) A declaration of candidacy or nomination petition filed under this section is
335 valid unless a written objection is filed with the clerk within five days after the last day for
336 filing.

337 (b) If an objection is made, the clerk shall:

338 (i) mail or personally deliver notice of the objection to the affected candidate
339 immediately; and
340 (ii) decide any objection within 48 hours after it is filed.
341 (c) If the clerk sustains the objection, the candidate may correct the problem by
342 amending the declaration or petition within three days after the objection is sustained or by
343 filing a new declaration within three days after the objection is sustained.
344 (d) (i) The clerk's decision upon objections to form is final.
345 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
346 prompt application is made to the district court.
347 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
348 of its discretion, agrees to review the lower court decision.
349 (12) Any person who filed a declaration of candidacy and was nominated, and any
350 person who was nominated by a nomination petition, may, any time up to 23 days before the
351 election, withdraw the nomination by filing a written affidavit with the clerk.
352 **Section 4. Effective date.**
353 If approved by two-thirds of all the members elected to each house, this bill takes effect
354 upon approval by the governor, or the day following the constitutional time limit of Utah
355 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
356 the date of veto override.

Legislative Review Note
as of 10-16-07 11:22 AM

Office of Legislative Research and General Counsel

H.B. 238 - Campaign Finance Filing Requirements

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
