

1 **CAMPAIGN FINANCE DISCLOSURES IN MUNICIPAL**
2 **ELECTIONS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Craig Hall**

6 Senate Sponsor: Deidre M. Henderson

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions relating to campaign finance disclosures in municipal
11 elections.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires a candidate for municipal office to make a campaign finance disclosure
15 before the municipal primary.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **10-3-208**, as last amended by Laws of Utah 2015, Chapters 21 and 247

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

25 Section 1. Section **10-3-208** is amended to read:

26 **10-3-208. Campaign finance disclosure in municipal election.**

27 (1) Unless a municipality adopts by ordinance more stringent definitions, the following
28 are defined terms for purposes of this section:

29 (a) "Agent of a candidate" means:

- 30 (i) a person acting on behalf of a candidate at the direction of the reporting entity;
- 31 (ii) a person employed by a candidate in the candidate's capacity as a candidate;
- 32 (iii) the personal campaign committee of a candidate;
- 33 (iv) a member of the personal campaign committee of a candidate in the member's
- 34 capacity as a member of the personal campaign committee of the candidate; or
- 35 (v) a political consultant of a candidate.
- 36 (b) (i) "Candidate" means a person who:
- 37 (A) files a declaration of candidacy for municipal office; or
- 38 (B) receives contributions, makes expenditures, or gives consent for any other person
- 39 to receive contributions or make expenditures to bring about the person's nomination or
- 40 election to a municipal office.
- 41 (ii) "Candidate" does not mean a person who files for the office of judge.
- 42 (c) (i) "Contribution" means any of the following when done for political purposes:
- 43 (A) a gift, subscription, donation, loan, advance, or deposit of money or anything of
- 44 value given to a candidate;
- 45 (B) an express, legally enforceable contract, promise, or agreement to make a gift,
- 46 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or
- 47 anything of value to the candidate;
- 48 (C) any transfer of funds from another reporting entity to the candidate;
- 49 (D) compensation paid by any person or reporting entity other than the candidate for
- 50 personal services provided without charge to the candidate;
- 51 (E) a loan made by a candidate deposited to the candidate's own campaign; and
- 52 (F) an in-kind contribution.
- 53 (ii) "Contribution" does not include:
- 54 (A) services provided by an individual volunteering a portion or all of the individual's
- 55 time on behalf of the candidate if the services are provided without compensation by the
- 56 candidate or any other person;
- 57 (B) money lent to the candidate by a financial institution in the ordinary course of

58 business; or

59 (C) goods or services provided for the benefit of a candidate at less than fair market
60 value that are not authorized by or coordinated with the candidate.

61 (d) "Coordinated with" means that goods or services provided for the benefit of a
62 candidate are provided:

63 (i) with the candidate's prior knowledge, if the candidate does not object;

64 (ii) by agreement with the candidate;

65 (iii) in coordination with the candidate; or

66 (iv) using official logos, slogans, and similar elements belonging to a candidate.

67 (e) (i) "Expenditure" means any of the following made by a candidate or an agent of
68 the candidate on behalf of the candidate:

69 (A) any disbursement from contributions, receipts, or from an account described in
70 Subsection (3)(a)(i);

71 (B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
72 or anything of value made for political purposes;

73 (C) an express, legally enforceable contract, promise, or agreement to make any
74 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
75 value for a political purpose;

76 (D) compensation paid by a candidate for personal services rendered by a person
77 without charge to a reporting entity;

78 (E) a transfer of funds between the candidate and a candidate's personal campaign
79 committee as defined in Section [20A-11-101](#); or

80 (F) goods or services provided by a reporting entity to or for the benefit of the
81 candidate for political purposes at less than fair market value.

82 (ii) "Expenditure" does not include:

83 (A) services provided without compensation by an individual volunteering a portion or
84 all of the individual's time on behalf of a candidate; or

85 (B) money lent to a candidate by a financial institution in the ordinary course of

86 business.

87 (f) "In-kind contribution" means anything of value other than money, that is accepted
88 by or coordinated with a candidate.

89 (g) (i) "Political consultant" means a person who is paid by a candidate, or paid by
90 another person on behalf of and with the knowledge of the candidate, to provide political
91 advice to the candidate.

92 (ii) "Political consultant" includes a circumstance described in Subsection (1)(g)(i),
93 where the person:

94 (A) has already been paid, with money or other consideration;

95 (B) expects to be paid in the future, with money or other consideration; or

96 (C) understands that the person may, in the discretion of the candidate or another
97 person on behalf of and with the knowledge of the candidate, be paid in the future, with money
98 or other consideration.

99 (h) "Political purposes" means an act done with the intent or in a way to influence or
100 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
101 against any candidate or a person seeking a municipal office at any caucus, political
102 convention, or election.

103 (i) "Reporting entity" means:

104 (i) a candidate;

105 (ii) a committee appointed by a candidate to act for the candidate;

106 (iii) a person who holds an elected municipal office;

107 (iv) a party committee as defined in Section [20A-11-101](#);

108 (v) a political action committee as defined in Section [20A-11-101](#);

109 (vi) a political issues committee as defined in Section [20A-11-101](#);

110 (vii) a corporation as defined in Section [20A-11-101](#); or

111 (viii) a labor organization as defined in Section [20A-11-1501](#).

112 (j) "Reporting limit" means for each calendar year:

113 (i) \$50; or

114 (ii) an amount lower than \$50 that is specified in an ordinance of the municipality.

115 (2) (a) A municipality may adopt an ordinance establishing campaign finance
116 disclosure requirements for a candidate that are more stringent than the requirements provided
117 in Subsections (3) and (4).

118 (b) The municipality may adopt definitions that are more stringent than those provided
119 in Subsection (1).

120 (c) If a municipality fails to adopt a campaign finance disclosure ordinance described
121 in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained
122 in Subsections (3) and (4).

123 (3) (a) Each candidate:

124 (i) shall deposit a contribution in a separate campaign account in a financial institution;
125 and

126 (ii) may not deposit or mingle any campaign contributions received into a personal or
127 business account.

128 (b) In a year in which a municipal primary is held, each candidate who will participate
129 in the municipal primary shall file a campaign finance statement with the municipal clerk or
130 recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

131 [~~(b)~~] (c) Each candidate who is not eliminated at a municipal primary election shall file
132 with the municipal clerk or recorder a campaign finance statement:

133 (i) no later than seven days before the day on which the municipal general election is
134 held; and

135 (ii) no later than 30 days after the day on which the municipal general election is held.

136 [~~(c)~~] (d) Each candidate for municipal office who is eliminated at a municipal primary
137 election shall file with the municipal clerk or recorder a campaign finance statement 30 days
138 after the day on which the municipal primary election is held.

139 (4) Each campaign finance statement [~~under~~] described in Subsection (3)[~~(b)~~ or (c)]
140 shall:

141 (a) except as provided in Subsection (4)(b):

- 142 (i) report all of the candidate's itemized and total:
- 143 (A) contributions, including in-kind and other nonmonetary contributions, received up
- 144 to and including five days before the campaign finance statement is due, excluding a
- 145 contribution previously reported; and
- 146 (B) expenditures made up to and including five days before the campaign finance
- 147 statement is due, excluding an expenditure previously reported; and
- 148 (ii) identify:
- 149 (A) for each contribution that exceeds the reporting limit, the amount of the
- 150 contribution and the name of the donor, if known;
- 151 (B) the aggregate total of all contributions that individually do not exceed the reporting
- 152 limit; and
- 153 (C) for each expenditure, the amount of the expenditure and the name of the recipient
- 154 of the expenditure; or
- 155 (b) report the total amount of all contributions and expenditures if the candidate
- 156 receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.
- 157 (c) Within 30 days after receiving a contribution that is cash or a negotiable instrument,
- 158 exceeds the reporting limit, and is from a donor whose name is unknown, a candidate shall
- 159 disburse the amount of the contribution to:
- 160 (i) the treasurer of the state or a political subdivision for deposit into the state's or
- 161 political subdivision's general fund; or
- 162 (ii) an organization that is exempt from federal income taxation under Section
- 163 501(c)(3), Internal Revenue Code.
- 164 (5) (a) A municipality may, by ordinance:
- 165 (i) provide a reporting limit lower than \$50;
- 166 (ii) require greater disclosure of contributions or expenditures than is required in this
- 167 section; and
- 168 (iii) impose additional penalties on candidates who fail to comply with the applicable
- 169 requirements beyond those imposed by this section.

170 (b) A candidate is subject to the provisions of this section and not the provisions of an
171 ordinance adopted by the municipality under Subsection (5)(a) if:

172 (i) the municipal ordinance establishes requirements or penalties that differ from those
173 established in this section; and

174 (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the
175 ordinance as required in Subsection (6).

176 (6) Each municipal clerk or recorder shall, at the time the candidate for municipal
177 office files a declaration of candidacy, and again 14 days before each municipal general
178 election, notify the candidate in writing of:

179 (a) the provisions of statute or municipal ordinance governing the disclosure of
180 contributions and expenditures;

181 (b) the dates when the candidate's campaign finance statement is required to be filed;
182 and

183 (c) the penalties that apply for failure to file a timely campaign finance statement,
184 including the statutory provision that requires removal of the candidate's name from the ballot
185 for failure to file the required campaign finance statement when required.

186 (7) Notwithstanding any provision of Title 63G, Chapter 2, Government Records
187 Access and Management Act, the municipal clerk or recorder shall:

188 (a) make each campaign finance statement filed by a candidate available for public
189 inspection and copying no later than one business day after the statement is filed; and

190 (b) make the campaign finance statement filed by a candidate available for public
191 inspection by:

192 (i) (A) posting an electronic copy or the contents of the statement on the municipality's
193 website no later than seven business days after the statement is filed; and

194 (B) verifying that the address of the municipality's website has been provided to the
195 lieutenant governor in order to meet the requirements of Subsection [20A-11-103\(5\)](#); or

196 (ii) submitting a copy of the statement to the lieutenant governor for posting on the
197 website established by the lieutenant governor under Section [20A-11-103](#) no later than two

198 business days after the statement is filed.

199 (8) (a) If a candidate fails to timely file a campaign finance statement [~~before the~~
200 ~~municipal general election by the deadline specified in Subsection~~] required under Subsection
201 (3)~~(b)(i)~~, the municipal clerk or recorder shall inform the appropriate election official who:

202 (i) shall:

203 (A) if practicable, remove the candidate's name from the ballot by blacking out the
204 candidate's name before the ballots are delivered to voters; or

205 (B) if removing the candidate's name from the ballot is not practicable, inform the
206 voters by any practicable method that the candidate has been disqualified and that votes cast for
207 the candidate will not be counted; and

208 (ii) may not count any votes for that candidate.

209 (b) Notwithstanding Subsection (8)(a), a candidate who [~~files a~~] timely files each
210 campaign finance statement [~~seven days before a municipal general election~~] required under
211 Subsection (3) is not disqualified if:

212 (i) the statement details accurately and completely the information required under
213 Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and

214 (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the
215 next scheduled report.

216 (9) A campaign finance statement required under this section is considered filed if it is
217 received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

218 (10) (a) A private party in interest may bring a civil action in district court to enforce
219 the provisions of this section or an ordinance adopted under this section.

220 (b) In a civil action under Subsection (10)(a), the court may award costs and attorney
221 fees to the prevailing party.