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1 **JUDICIAL RETENTION ELECTION**

2 **AMENDMENTS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gary F. Cox**

6 **This act modifies campaign and financial reporting requirements by adding requirements**
7 **governing judges standing for a retention election. This act requires judges to establish a**
8 **campaign committee under certain circumstances, requires them to establish a separate**
9 **account for campaign funds, and establishes the dates they must file and information they**
10 **must provide on campaign finance reports.**

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

12 AMENDS:

13 **20A-7-702**, as last amended by Chapter 221, Laws of Utah 2000

14 ENACTS:

15 **20A-12-301**, Utah Code Annotated 1953

16 **20A-12-302**, Utah Code Annotated 1953

17 **20A-12-303**, Utah Code Annotated 1953

18 **20A-12-304**, Utah Code Annotated 1953

19 **20A-12-305**, Utah Code Annotated 1953

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

21 Section 1. Section **20A-7-702** is amended to read:

22 **20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.**

23 (1) The lieutenant governor shall ensure that all information submitted for publication in
24 the voter information pamphlet is:

25 (a) printed and bound in a single pamphlet;

26 (b) printed in clear readable type, no less than ten-point, except that the text of any
27 measure may be set forth in eight-point type; and

- 28 (c) printed on a quality and weight of paper that best serves the voters.
- 29 (2) The voter information pamphlet shall contain the following items in this order:
- 30 (a) a cover title page;
- 31 (b) an introduction to the pamphlet by the lieutenant governor;
- 32 (c) a table of contents;
- 33 (d) a list of all candidates for constitutional offices;
- 34 (e) a list of candidates for each legislative district;
- 35 (f) a 100-word statement of qualifications for each candidate for the office of governor,
- 36 lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate
- 37 to the lieutenant governor's office before July 15 at 5 p.m.;
- 38 (g) information pertaining to all measures to be submitted to the voters, beginning a new
- 39 page for each measure and containing, in the following order for each measure:
- 40 (i) a copy of the number and ballot title of the measure;
- 41 (ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the
- 42 Legislature or by referendum;
- 43 (iii) the impartial analysis of the measure prepared by the Office of Legislative Research
- 44 and General Counsel;
- 45 (iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the
- 46 measure, the arguments against the measure, and the rebuttal to the arguments against the measure,
- 47 with the name and title of the authors at the end of each argument or rebuttal;
- 48 (v) for each constitutional amendment, a complete copy of the text of the constitutional
- 49 amendment, with all new language underlined, and all deleted language placed within brackets;
- 50 and
- 51 (vi) for each initiative qualified for the ballot, a copy of the measure as certified by the
- 52 lieutenant governor;
- 53 (h) a description provided by the Judicial Council of the selection and retention process
- 54 for judges [~~of courts of record~~], including, in the following order:
- 55 (i) a description of the judicial selection process;
- 56 (ii) a description of the judicial performance evaluation process;
- 57 (iii) a description of the judicial retention election process;
- 58 (iv) a list of the criteria and minimum standards of judicial performance evaluation;

- 59 (v) the names of the judges standing for retention election; and
60 (vi) for each judge:
61 (A) the counties in which the judge is subject to retention election;
62 (B) a short biography of professional qualifications and a recent photograph;
63 (C) for each standard of performance, a statement identifying whether or not the judge met
64 the standard and, if not, the manner in which the judge failed to meet the standard;
65 (D) a statement identifying the cumulative number of public orders issued by the Utah
66 Supreme Court under Utah Constitution Article VIII, Section 13 during the judge's current term
67 and the immediately preceding term, and a statement of the basis for each order that the judge has
68 received; and
69 (E) a statement identifying whether or not the judge was certified by the Judicial Council;
70 (vii) (A) except as provided in Subsection (2)(h)(vii)(B), for each judge, in graphic format,
71 the ~~[favorable response rating]~~ responses for each attorney, jury, and other survey question used
72 by the Judicial Council for certification of judges, displayed in 1% increments ~~[and identifying the~~
73 ~~minimum standards of performance for each question]~~;
74 (B) notwithstanding Subsection (2)(h)(vii)(A), if the sample size for the survey for a
75 particular judge is too small to provide statistically reliable information in 1% increments, the
76 survey results for that judge shall be reported as being above or below 70% and a statement by the
77 surveyor explaining why the survey is statistically unreliable shall also be included;
78 (i) an explanation of ballot marking procedures prepared by the Office of Legislative
79 Research and General Counsel, indicating the ballot marking procedure used by each county and
80 explaining how to mark the ballot for each procedure;
81 (j) voter registration information;
82 (k) a list of all county clerks' offices and phone numbers;
83 (l) an index of subjects in alphabetical order; and
84 (m) on the back cover page, a printed copy of the following statement signed by the
85 lieutenant governor:
86 "I, _____ (print name), Lieutenant Governor of Utah, certify that the measures
87 contained in this pamphlet will be submitted to the voters of Utah at the election to be held
88 throughout the state on ____ (date of election), and that this pamphlet is complete and correct
89 according to law. SEAL

90 Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of
91 ____ (month), ____ (year)

92 (signed) _____
93 Lieutenant Governor"

94 (3) The lieutenant governor shall:

95 (a) ensure that one copy of the voter information pamphlet is placed in one issue of every
96 newspaper of general circulation in the state not more than 40 nor less than 15 days before the day
97 fixed by law for the election;

98 (b) ensure that a sufficient number of printed voter information pamphlets are available
99 for distribution as required by this section;

100 (c) provide voter information pamphlets to each county clerk for free distribution upon
101 request and for placement at polling places; and

102 (d) ensure that the distribution of the voter information pamphlets is completed 15 days
103 before the election.

104 Section 2. Section 20A-12-301 is enacted to read:

105 **Part 3. Campaign and Financial Reporting Requirements**
106 **for Judicial Retention Elections**

107 **20A-12-301. Definitions.**

108 As used in this part:

109 (1) (a) "Contribution" means any of the following when done for political purposes:

110 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value
111 given to the judge or the judge's personal campaign committee;

112 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,
113 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything
114 of value to the judge or the judge's personal campaign committee;

115 (iii) any transfer of funds from another reporting entity or a corporation to the judge or the
116 judge's personal campaign committee;

117 (iv) compensation paid by any person or reporting entity other than the judge or the judge's
118 personal campaign committee for personal services provided without charge to the judge or the
119 judge's personal campaign committee; and

120 (v) goods or services provided to or for the benefit of the judge or the judge's personal

121 campaign committee at less than fair market value.

122 (b) "Contribution" does not include:

123 (i) services provided without compensation by individuals volunteering a portion or all of
124 their time on behalf of the judge or the judge's personal campaign committee; or

125 (ii) money lent to the judge or the judge's personal campaign committee by a financial
126 institution in the ordinary course of business.

127 (2) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business
128 organization that is registered as a corporation or is authorized to do business in a state and makes
129 any expenditure from corporate funds for political purposes.

130 (b) "Corporation" does not mean:

131 (i) a business organization's political action committee as defined in Section 20A-11-101
132 or political issues committee as defined in Section 20A-11-101; or

133 (ii) a business entity organized as a partnership or a sole proprietorship.

134 (3) "Detailed listing" means:

135 (a) for each contribution:

136 (i) the name and address of the individual or source making the contribution;

137 (ii) the amount or value of the contribution; and

138 (iii) the date the contribution was made; and

139 (b) for each expenditure:

140 (i) the amount of the expenditure;

141 (ii) the person or entity to whom it was disbursed;

142 (iii) the specific purpose, item, or service acquired by the expenditure; and

143 (iv) the date the expenditure was made.

144 (4) (a) "Expenditure" means:

145 (i) any disbursement from contributions or from the separate bank account required by this
146 chapter;

147 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or
148 anything of value made for political purposes;

149 (iii) an express, legally enforceable contract, promise, or agreement to make any purchase,
150 payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for
151 political purposes;

152 (iv) compensation paid by a corporation or reporting entity for personal services rendered
153 by a person without charge to the judge or the judge's personal campaign committee;

154 (v) a transfer of funds between the judge's personal campaign committee and another
155 judge's personal campaign committee; or

156 (vi) goods or services provided by the judge's personal campaign committee to or for the
157 benefit of another judge for political purposes at less than fair market value.

158 (b) "Expenditure" does not include:

159 (i) services provided without compensation by individuals volunteering a portion or all of
160 their time on behalf of the judge or judge's personal campaign committee; or

161 (ii) money lent to a judge's personal campaign committee by a financial institution in the
162 ordinary course of business.

163 (5) "Individual" means a natural person.

164 (6) "Interim report" means a report identifying the contributions received and expenditures
165 made since the last report.

166 (7) "Personal campaign committee" means the committee appointed by a judge to act for
167 the judge as provided in this chapter.

168 (8) "Political purposes" means an act done with the intent or in a way to influence or tend
169 to influence, directly or indirectly, any person to refrain from voting or to vote for or against any
170 judge standing for retention at any election.

171 (9) "Reporting entity" means a judge, judge's personal campaign committee, candidate, a
172 candidate's personal campaign committee, an officeholder, and a party committee, a political action
173 committee, and a political issues committee.

174 (10) "Summary report" means the year-end report containing the summary of a reporting
175 entity's contributions and expenditures.

176 Section 3. Section **20A-12-302** is enacted to read:

177 **20A-12-302. Campaign committee required.**

178 (1) (a) When permitted to do so by the Code of Judicial Conduct promulgated by the Utah
179 Supreme Court, and if the judge chooses to solicit contributions or make expenditures to promote
180 his retention, the judge may establish no more than one retention election personal campaign
181 committee, consisting of one or more persons, to receive contributions, make expenditures, and
182 file reports connected with the judge's retention election campaign.

183 (b) A judge or person acting in concert with or with the knowledge of the judge may not
184 receive any contributions or make any expenditures other than through the personal campaign
185 committee established under this section.

186 (2) (a) The judge shall file with the lieutenant governor a signed written statement
187 containing the name and address of each member and the secretary of the judge's personal
188 campaign committee.

189 (b) The judge may change the membership of the personal campaign committee at any
190 time by filing with the lieutenant governor a signed statement containing the name and address of
191 any additional members and identifying any members that have been removed from the committee.

192 (c) The judge or the judge's personal campaign committee may not make any expenditures
193 on behalf of the judge until the statement has been filed.

194 (3) (a) The judge's personal campaign committee may not make an expenditure of more
195 than \$1,000 unless the judge or the secretary of the personal campaign committee authorizes the
196 expenditure in writing.

197 (b) A judge or the judge's personal campaign committee may not make any expenditures
198 prohibited by law.

199 (4) A judge's personal campaign committee is dissolved on the date that the summary
200 report required by Section 20A-12-304 is filed.

201 Section 4. Section **20A-12-303** is enacted to read:

202 **20A-12-303. Separate account for campaign funds.**

203 (1) The judge or the judge's personal campaign committee shall deposit each contribution
204 in one or more separate personal campaign accounts in a financial institution.

205 (2) The judge or the judge's personal campaign committee may not deposit or mingle any
206 contributions received into a personal or business account.

207 Section 5. Section **20A-12-304** is enacted to read:

208 **20A-12-304. Judicial retention election candidates -- Financial reporting**
209 **requirements -- Year-end summary report.**

210 (1) The judge's personal campaign committee shall file a summary report with the
211 lieutenant governor by January 5 of the year after the regular general election year.

212 (2) (a) Each summary report shall include the following information as of December 31
213 of the last regular general election year:

214 (i) a single figure equal to the total amount of contributions reported on the interim report;
215 (ii) a single figure equal to the total amount of expenditures reported on the interim report;
216 (iii) a detailed listing of each contribution received since the last summary report that has
217 not been reported in detail on the interim report;

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

219 (v) a detailed listing of each expenditure made since the last summary report that has not
220 been reported in detail on the interim report;

221 (vi) for each nonmonetary expenditure, the fair market value of the expenditure; and

222 (vii) the net balance for the year, consisting of all contributions minus all expenditures.

223 (b) (i) For all single contributions of \$50 or less, an aggregate figure may be reported
224 without a separate detailed listing.

225 (ii) Two or more contributions from the same source for a total of more than \$50 may not
226 be reported in the aggregate, but shall be reported in the detailed listing.

227 (3) The summary report shall contain a statement signed by the judge certifying that, to
228 the best of the judge's knowledge, all contributions and all expenditures have been reported as of
229 December 31 of the last regular general election year and that there are no financial obligations
230 outstanding except as set forth in the report.

231 Section 6. Section **20A-12-305** is enacted to read:

232 **20A-12-305. Judicial retention election candidates -- Financial reporting**
233 **requirements -- Interim report.**

234 (1) The judge's personal campaign committee shall file an interim report with the
235 lieutenant governor seven days before the regular general election date.

236 (2) Each interim report shall include the following information:

237 (a) a detailed listing of each contribution received since the last summary report;

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

239 (c) a detailed listing of each expenditure made since the last summary report;

240 (d) for each nonmonetary expenditure, the fair market value of the expenditure; and

241 (e) a net balance for the year consisting of all contributions since the last summary report
242 minus all expenditures since the last summary report.

243 (3) (a) For all individual contributions of \$50 or less, a single aggregate figure may be
244 reported without separate detailed listings.

245 (b) Two or more contributions from the same source that have an aggregate total of more
246 than \$50 may not be reported in the aggregate, but shall be reported separately.

247 (4) In preparing each interim report, all contributions and expenditures shall be reported
248 as of five days before the required filing date of the report.

Legislative Review Note
as of 12-26-00 9:03 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel