

**COUNTY AND MUNICIPAL CAMPAIGN
FINANCE AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Trisha S. Beck

This act modifies the Utah Municipal Code and Counties Code. The act provides for the disqualification of a candidate for failure to file required reports. The act provides for a private right of action and an award of costs and attorney's fees for violation of campaign financial disclosure requirements.

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

AMENDS:

10-3-208, as last amended by Chapter 227, Laws of Utah 2000

17-16-6.5, as last amended by Chapter 258, Laws of Utah 1996

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

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

10-3-208. Campaign financial disclosure in municipal elections.

(1) (a) (i) By August 1, 1995, each first and second class city and each third class city having a population of 10,000 or more shall adopt an ordinance establishing campaign finance disclosure requirements for candidates for city office.

(ii) By August 1, 2001, each third class city with a population under 10,000 and each town shall adopt an ordinance establishing campaign finance disclosure requirements for candidates for city or town office who:

(A) receive more than \$750 in campaign contributions; or

(B) spend more than \$750 on their campaign for city or town office.

(b) The ordinance required under Subsection (1)(a) shall include:

(i) a requirement that each candidate for municipal office to whom the ordinance applies report the candidate's itemized and total campaign contributions and expenditures at least once seven days before the municipal general election and at least once 30 days after the municipal general election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things; and

(iii) a requirement that the financial reports identify:

(A) for each contribution of more than \$50, the name of the donor of the contribution and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure.

(2) (a) Except as provided in Subsection (2)(b), if a city or town fails to adopt a campaign finance disclosure ordinance as required under Subsection (1), candidates for office in that city or town shall comply with the financial reporting requirements contained in Subsections (3) through (6).

(b) (i) If a city or town adopts a campaign finance disclosure ordinance that meets the requirements of Subsection (1), that city or town need not comply with the requirements of Subsections (3) through (6).

(ii) Subsection (2)(a) and the financial reporting requirements of Subsections (3) through (6) do not apply to a candidate for municipal office who:

(A) is a candidate for municipal office in a city with a population under 10,000 or a town; and

(B) (I) receives \$750 or less in campaign contributions; and

(II) spends \$750 or less on the candidate's campaign for municipal office.

(3) If there is no municipal ordinance meeting the requirements of this section upon the dates specified in Subsection (1), each candidate for elective municipal office shall file a signed campaign financial statement with the city recorder:

(a) seven days before the date of the municipal general election, reporting each contribution of more than \$50 and each expenditure as of ten days before the date of the municipal general election; and

(b) no later than 30 days after the date of the municipal general election.

(4) (a) The statement filed seven days before the municipal general election shall include:

(i) a list of each contribution of more than \$50 received by the candidate, and the name of

the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

(iii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the municipal general election shall include:

(i) a list of each contribution of more than \$50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and

(iii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(5) Candidates for elective municipal office who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(6) Any person who fails to comply with this section is guilty of an infraction.

(7) A city or town may, by ordinance, enact requirements that:

(a) require greater disclosure of campaign contributions and expenditures; and

(b) impose additional penalties.

(8) (a) If a candidate fails to file an interim report due before the municipal general election, the city recorder shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:

(i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

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

(iii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (8)(a), a candidate is not disqualified if:

- (i) the candidate files the reports required by this section;
- (ii) those reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and
- (iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(9) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (9)(a), the court may award costs and attorney's fees to the prevailing party.

Section 2. Section **17-16-6.5** is amended to read:

17-16-6.5. Campaign financial disclosure in county elections.

(1) (a) By January 1, 1996, each county shall adopt an ordinance establishing campaign finance disclosure requirements for candidates for county office.

(b) The ordinance shall include:

(i) a requirement that each candidate for county office report his itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things; and

(iii) a requirement that the financial reports identify:

(A) for each contribution of more than \$50, the name of the donor of the contribution and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure.

(2) (a) Except as provided in Subsection (2)(b), if any county fails to adopt a campaign finance disclosure ordinance by January 1, 1996, candidates for county office shall comply with the financial reporting requirements contained in Subsections (3) through (6).

(b) If, after August 1, 1995, any county adopts a campaign finance ordinance meeting the requirements of Subsection (1), that county need not comply with the requirements of Subsections

(3) through (6).

(3) (a) Except as provided in Subsection (3)(b), and if there is no county ordinance meeting the requirements of this section, each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor shall file a signed campaign financial statement with the county clerk:

(i) seven days before the date of the regular general election, reporting each contribution of more than \$50 and each expenditure as of ten days before the date of the regular general election; and

(ii) no later than 30 days after the date of the regular general election.

(b) Candidates for community council offices are exempt from the requirements of this section.

(4) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution of more than \$50 received by the candidate, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

(iii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution of more than \$50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and

(iii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(5) Candidates for elective office in any county who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(6) Any person who fails to comply with this section is guilty of an infraction.

(7) Counties may, by ordinance, enact requirements that:

- (a) require greater disclosure of campaign contributions and expenditures; and
- (b) impose additional penalties.

(8) (a) If a candidate fails to file an interim report due before the election, the county clerk shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:

(i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

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

(iii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (8)(a), a candidate is not disqualified if:

(i) the candidate files the reports required by this section;

(ii) those reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(9) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (9)(a), the court shall award costs and attorney's fees to the prevailing party.