

**ELECTION LAW - DISCLOSURE
REQUIREMENTS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Beverly Ann Evans

This act modifies statutes governing election law disclosure requirements. The law clarifies when a report is considered filed and when a school board candidate may be disqualified. This act makes technical changes.

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

AMENDS:

10-3-208, as last amended by Chapter 272, Laws of Utah 2002

17-16-6.5, as last amended by Chapter 272, Laws of Utah 2002

20A-11-1305, as enacted by Chapter 355, Laws of Utah 1997

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.

(c) A report is considered filed if:

(i) it is received in the municipal recorder's office no later than 5 p.m. on the date that it is due;

(ii) it is received in the municipal recorder's office with a postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(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.

(c) A report is considered filed if:

(i) it is received in the county clerk's office no later than 5 p.m. on the date that it is due;

(ii) it is received in the county clerk's office with a U.S. Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(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.

Section 3. Section **20A-11-1305** is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement -- Name not printed on ballot -- Filling vacancy.

(1) (a) If a school board office candidate fails to file an interim report due before the regular primary election, September 15, and before the regular general election, the chief election officer shall, after making a reasonable attempt to discover if the report was timely mailed, inform the county clerk and other 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 candidate will not be counted; and

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

(b) Any school board office candidate who fails to file timely a financial statement required by this part is disqualified and the vacancy on the ballot may be filled as provided in Section 20A-1-501.

(c) Notwithstanding Subsection (1)(a) and (1)(b), a school board office candidate is not

disqualified if:

~~(i) the candidate [in good faith: (i)] files the reports required by this section [on time even if an error or inaccuracy in the report requires the school board office candidate to file an amended report after the deadline; and];~~

~~[(ii) the error is]~~

(ii) those reports are completed, detailing accurately and completely the information required by this part 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.

(2) (a) Within 30 days after a deadline for the filing of a summary report by a candidate for state school board, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state school board candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state school board candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state school board candidate of the violation or written complaint and direct the state school board candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any state school board candidate to fail to file or amend a summary report within 14 days after receiving notice from the lieutenant governor under this section.

(ii) Each state school board candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the

attorney general.

(3) (a) Within 30 days after a deadline for the filing of a summary report, the county clerk shall review each filed summary report to ensure that:

(i) each local school board candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any local school board candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the county clerk has received a written complaint alleging a violation of the law or the falsity of any summary report, the county clerk shall, within five days of discovery of a violation or receipt of a written complaint, notify the local school board candidate of the violation or written complaint and direct the local school board candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any local school board candidate to fail to file or amend a summary report within 14 days after receiving notice from the county clerk under this section.

(ii) Each local school board candidate who violates Subsection (3)(c)(i) is guilty of a class B misdemeanor.

(iii) The county clerk shall report all violations of Subsection (3)(c)(i) to the district or county attorney.