

**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



28 least once seven days before the municipal general election and at least once 30 days after the
29 municipal general election;

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

33 (iii) a requirement that the financial reports identify:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

78 (b) impose additional penalties.

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

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

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

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

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

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

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

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

95 (c) A report is considered filed if:

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

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

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

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

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

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

107 **17-16-6.5. Campaign financial disclosure in county elections.**

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

110 (b) The ordinance shall include:

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

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

117 (iii) a requirement that the financial reports identify:

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

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

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

124 (b) If, after August 1, 1995, any county adopts a campaign finance ordinance meeting
125 the requirements of Subsection (1), that county need not comply with the requirements of
126 Subsections (3) through (6).

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

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

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

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

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

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

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

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

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

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

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

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

151 (5) Candidates for elective office in any county who are eliminated at a primary

152 election shall file a signed campaign financial statement containing the information required by
153 this section not later than 30 days after the primary election.

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

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

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

157 (b) impose additional penalties.

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

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

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

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

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

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

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

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

174 (c) A report is considered filed if:

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

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

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

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

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

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

186 **20A-11-1305. School board office candidate -- Failure to file statement -- Name**
 187 **not printed on ballot -- Filling vacancy.**

188 (1) (a) If a school board office candidate fails to file an interim report due before the
 189 regular primary election, September 15, and before the regular general election, the chief
 190 election officer shall, after making a reasonable attempt to discover if the report was timely
 191 mailed, inform the county clerk and other appropriate election officials who:

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

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

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

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

201 (c) Notwithstanding Subsection (1)(a) and (1)(b), a school board office candidate is not
 202 disqualified if:

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

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

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

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

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

214 that:

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

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

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

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

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

230 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
231 attorney general.

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

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

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

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

244 (c) (i) It is unlawful for any local school board candidate to fail to file or amend a

245 summary report within 14 days after receiving notice from the county clerk under this section.

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

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

Legislative Review Note

as of 2-4-03 7:37 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0196

Election Law - Disclosure Requirements

11-Feb-03
4:25 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst