

CAMPAIGN FINANCE FILING

REQUIREMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies the Election Code and the Utah Municipal Code to amend certain requirements for compliance with campaign finance reporting provisions.

Highlighted Provisions:

This bill:

- ▶ requires strict compliance for filing deadlines when a petition is brought to the district court regarding compliance with campaign finance reporting provisions;
- ▶ requires the election filing officer to provide each qualified candidate with a copy of current campaign financial disclosure laws and to inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;
- ▶ requires the candidate, in the declaration of candidacy, to promise to file all campaign financial disclosure reports as required by law and to acknowledge that failure to do so will result in the candidate's disqualification for this office and removal of the candidate's name from the ballot; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides an immediate effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **20A-1-404**, as enacted by Chapter 1, Laws of Utah 1993

32 **20A-9-201**, as last amended by Chapter 226, Laws of Utah 2006

33 **20A-9-203**, as last amended by Chapters 28 and 226, Laws of Utah 2006



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

36 Section 1. Section **20A-1-404** is amended to read:

37 **20A-1-404. Election controversies.**

38 (1) (a) (i) Whenever any controversy occurs between any election officer or other
39 person or entity charged with any duty or function under this title and any candidate, or the
40 officers or representatives of any political party, or persons who have made nominations, either
41 party to the controversy may file a verified petition with the district court.

42 (ii) If a petition is filed, the petitioner shall serve a copy of the petition on the
43 respondents on the same day that the petition is filed with the court.

44 (b) The verified petition shall identify concisely the nature of the controversy and the
45 relief sought.

46 (2) After reviewing the petition, the court shall:

47 (a) issue an order commanding the respondent named in the petition to appear before
48 the court to answer, under oath, to the petition;

49 (b) summarily hear and dispose of any issues raised by the petition to obtain:

50 (i) strict compliance with all filing deadlines for financial disclosure reports under:

51 (A) Section 10-3-208, regarding campaign finance statements in municipal elections;

52 (B) Title 20A, Chapter 11, Part 2, State Office Candidates - Campaign Organization
53 and Financial Reporting Requirements;

54 (C) Title 20A, Chapter 11, Part 3, Candidates for Legislative Office - Campaign
55 Organization and Financial Reporting Requirements;

56 (D) Title 20A, Chapter 11, Part 4, Officeholder Financial Reporting Requirements;

57 (E) Title 20A, Chapter 11, Part 5, Political Party Registration and Financial Reporting
58 Requirements;

59 (F) Title 20A, Chapter 11, Part 6, Political Action Committee Registration and
 60 Reporting Requirements;
 61 (G) Title 20A, Chapter 11, Part 7, Campaign Financial Reporting by Corporations;
 62 (H) Title 20A, Chapter 11, Part 8, Political Issues Committees - Registration and
 63 Financial Reporting; and
 64 (I) Title 20A, Chapter 11, Part 13, State and Local School Board Candidates; and
 65 (ii) substantial compliance with [the] all other provisions of this title by the parties to
 66 the controversy; and
 67 (c) make and enter orders and judgments, and issue the process of the court to enforce
 68 all of those orders and judgments.

68a ~~H~~→ **(3)The lieutenant governor's failure to send timely notice under Section 20A-11-103**
 68b **may not be used as a defense for a person's failure to strictly comply with the filing deadlines**
 68c **for financial disclosure reports under the provisions referenced in Subsection (2)(b)(i).** ←~~H~~

69 Section 2. Section 20A-9-201 is amended to read:

70 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
 71 **more than one political party prohibited with exceptions -- General filing and form**
 72 **requirements.**

73 (1) Before filing a declaration of candidacy for election to any office, a person shall:

74 (a) be a United States citizen; and

75 (b) meet the legal requirements of that office.

76 (2) (a) Except as provided in Subsection (2)(b), a person may not:

77 (i) file a declaration of candidacy for, or be a candidate for, more than one office in
 78 Utah during any election year; or

79 (ii) appear on the ballot as the candidate of more than one political party.

80 (b) A person may file a declaration of candidacy for, or be a candidate for, President or
 81 Vice President of the United States and another office, if the person resigns the person's
 82 candidacy for the other office after the person is officially nominated for President or Vice
 83 President of the United States.

84 (3) If the final date established for filing a declaration of candidacy is a Saturday or
 85 Sunday, the filing time shall be extended until 5 p.m. on the following business day.

86 (4) (a) (i) Except for presidential candidates, before the filing officer may accept any
 87 declaration of candidacy, the filing officer shall:

88 (A) read to the prospective candidate the constitutional and statutory qualification
 89 requirements for the office that the candidate is seeking; and

90 (B) require the candidate to state whether or not the candidate meets those
91 requirements.

92 (ii) Before accepting a declaration of candidacy for the office of county attorney, the
93 county clerk shall ensure that the person filing that declaration of candidacy is:

94 (A) a United States citizen;

95 (B) an attorney licensed to practice law in Utah who is an active member in good
96 standing of the Utah State Bar;

97 (C) a registered voter in the county in which he is seeking office; and

98 (D) a current resident of the county in which he is seeking office and either has been a
99 resident of that county for at least one year or was appointed and is currently serving as county
100 attorney and became a resident of the county within 30 days after appointment to the office.

101 (iii) Before accepting a declaration of candidacy for the office of district attorney, the
102 county clerk shall ensure that, as of the date of the election, the person filing that declaration of
103 candidacy is:

104 (A) a United States citizen;

105 (B) an attorney licensed to practice law in Utah who is an active member in good
106 standing of the Utah State Bar;

107 (C) a registered voter in the prosecution district in which he is seeking office; and

108 (D) a current resident of the prosecution district in which he is seeking office and either
109 will have been a resident of that prosecution district for at least one year as of the date of the
110 election or was appointed and is currently serving as district attorney and became a resident of
111 the prosecution district within 30 days after receiving appointment to the office.

112 (iv) Before accepting a declaration of candidacy for the office of county sheriff, the
113 county clerk shall ensure that the person filing the declaration of candidacy:

114 (A) as of the date of filing:

115 (I) is a United States citizen;

116 (II) is a registered voter in the county in which the person seeks office;

117 (III) (Aa) has successfully met the standards and training requirements established for
118 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and
119 Certification Act; or

120 (Bb) has passed a certification examination as provided in Section 53-6-206; and

121 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
122 53-13-103; and

123 (B) as of the date of the election, shall have been a resident of the county in which the
124 person seeks office for at least one year.

125 (b) If the prospective candidate states that he does not meet the qualification
126 requirements for the office, the filing officer may not accept the prospective candidate's
127 declaration of candidacy.

128 (c) If the candidate states that he meets the requirements of candidacy, the filing officer
129 shall:

130 (i) provide the candidate with a copy of the current campaign financial disclosure laws
131 for the office the candidate is seeking and inform the candidate that failure to comply will
132 result in disqualification as a candidate and removal of the candidate's name from the ballot;

133 [~~(i)~~] (ii) provide the candidate with a copy of the pledge of fair campaign practices
134 described under Section 20A-9-206 and inform the candidate that:

135 (A) signing the pledge is voluntary; and

136 (B) signed pledges shall be filed with the filing officer;

137 [~~(ii)~~] (iii) accept the candidate's declaration of candidacy; and

138 [~~(iii)~~] (iv) if the candidate has filed for a partisan office, provide a certified copy of the
139 declaration of candidacy to the chair of the county or state political party of which the
140 candidate is a member.

141 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
142 officer shall:

143 (i) accept the candidate's pledge; and

144 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
145 candidate's pledge to the chair of the county or state political party of which the candidate is a
146 member.

147 (5) Except for presidential candidates, the form of the declaration of candidacy shall be
148 substantially as follows:

149 "State of Utah, County of ____

150 I, _____, declare my intention of becoming a candidate for the office of
151 ____ as a candidate for the ____ party. I do solemnly swear that: I can qualify to hold that

152 office, both legally and constitutionally, if selected; I reside at _____ in the City or
 153 Town of ____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law
 154 governing campaigns and elections; I will file all campaign financial disclosure reports as
 155 required by law and I understand that failure to do so will result in my disqualification as a
 156 candidate for this office and removal of my name from the ballot; and I will qualify for the
 157 office if elected to it. The mailing address that I designate for receiving official election
 158 notices is _____.

159 _____

160 Subscribed and sworn before me this _____(month\day\year).

161 Notary Public (or other officer qualified to administer oath.)"

162 (6) (a) Except for presidential candidates, the fee for filing a declaration of candidacy
 163 is:

- 164 (i) \$25 for candidates for the local school district board; and
- 165 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person
 166 holding the office, but not less than \$5, for all other federal, state, and county offices.

167 (b) Except for presidential candidates, the filing officer shall refund the filing fee to
 168 any candidate:

- 169 (i) who is disqualified; or
- 170 (ii) who the filing officer determines has filed improperly.
- 171 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received
 172 from candidates.

173 (ii) The lieutenant governor shall:

174 (A) apportion to and pay to the county treasurers of the various counties all fees
 175 received for filing of nomination certificates or acceptances; and

176 (B) ensure that each county receives that proportion of the total amount paid to the
 177 lieutenant governor from the congressional district that the total vote of that county for all
 178 candidates for representative in Congress bears to the total vote of all counties within the
 179 congressional district for all candidates for representative in Congress.

180 (d) (i) Each person who is unable to pay the filing fee may file a declaration of
 181 candidacy without payment upon a prima facie showing of impecuniosity as evidenced by an
 182 affidavit of impecuniosity filed with the filing officer.

183 (ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in
184 substantially the following form:

185 "Affidavit of Impecuniosity

186 Individual Name

187 _____ Address _____

188 Phone Number _____

189 I, _____ (name), do solemnly [swear] [affirm] that, owing to my
190 poverty, I am unable to pay the filing fee required by law.

191 Date _____ Signature _____

192 Affiant

193 Subscribed and sworn to before me on _____ (month\day\year)

194 _____

195 (signature)

196 Name and Title of Officer Authorized to Administer Oath _____"

197 (7) Any person who fails to file a declaration of candidacy or certificate of nomination
198 within the time provided in this chapter is ineligible for nomination to office.

199 Section 3. Section **20A-9-203** is amended to read:

200 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

201 (1) (a) A person may become a candidate for any municipal office if the person is a
202 registered voter and:

203 (i) the person has resided within the municipality in which that person seeks to hold
204 elective office for the 12 consecutive months immediately before the date of the election; or

205 (ii) if the territory in which the person resides was annexed into the municipality, the
206 person has resided within the annexed territory or the municipality for 12 months.

207 (b) In addition to the requirements of Subsection (1)(a), candidates for a municipal
208 council position under the council-mayor or council-manager alternative forms of municipal
209 government shall, if elected from districts, be residents of the council district from which they
210 are elected.

211 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally
212 incompetent person, any person convicted of a felony, or any person convicted of treason or a
213 crime against the elective franchise may not hold office in this state until the right to hold

214 elective office is restored under Section 20A-2-101.5.

215 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to
216 become a candidate for a municipal office shall file a declaration of candidacy in person with
217 the city recorder or town clerk during office hours and not later than 5 p.m. between July 15
218 and August 15 of any odd numbered year and pay the filing fee, if one is required by municipal
219 ordinance.

220 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of
221 persons registered to vote in the municipality on the January 1 of the municipal election year.

222 (ii) A third, fourth, or fifth class city that used the convention system to nominate
223 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
224 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
225 convention system to nominate candidates in the last municipal election as authorized by
226 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
227 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
228 for municipal office file a nominating petition signed by a percentage of registered voters at the
229 same time that the candidate files a declaration of candidacy.

230 (iii) The ordinance shall specify the number of signatures that the candidate must
231 obtain on the nominating petition in order to become a candidate for municipal office under
232 this Subsection (2), but that number may not exceed 5% of registered voters.

233 (c) Any resident of a municipality may nominate a candidate for a municipal office by
234 filing a nomination petition with the city recorder or town clerk during office hours but not
235 later than 5 p.m. between July 15 and August 15 of any odd numbered year and pay the filing
236 fee, if one is required by municipal ordinance.

237 (d) When August 15 is a Saturday or Sunday, the filing time shall be extended until 5
238 p.m. on the following Monday.

239 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
240 petition, the filing officer shall:

241 (i) read to the prospective candidate or person filing the petition the constitutional and
242 statutory qualification requirements for the office that the candidate is seeking; and

243 (ii) require the candidate or person filing the petition to state whether or not the
244 candidate meets those requirements.

245 (b) If the prospective candidate does not meet the qualification requirements for the
246 office, the filing officer may not accept the declaration of candidacy or nomination petition.

247 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
248 filing officer shall:

249 (i) provide the candidate with a copy of the current campaign financial disclosure laws
250 for the office the candidate is seeking and inform the candidate that failure to comply will
251 result in disqualification as a candidate and removal of the candidate's name from the ballot;

252 [(†)] (ii) provide the candidate with a copy of the pledge of fair campaign practices
253 described under Section 20A-9-206 and inform the candidate that:

254 (A) signing the pledge is voluntary; and

255 (B) signed pledges shall be filed with the filing officer; and

256 [(†)] (iii) accept the declaration of candidacy or nomination petition.

257 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
258 officer shall:

259 (i) accept the candidate's pledge; and

260 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
261 candidate's pledge to the chair of the county or state political party of which the candidate is a
262 member.

263 (4) The declaration of candidacy shall substantially comply with the following form:

264 "I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____,
265 County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a
266 registered voter; and that I am a candidate for the office of _____ (stating the term). I will file
267 all campaign financial disclosure reports as required by law and I understand that failure to do
268 so will result in my disqualification as a candidate for this office and removal of my name from
269 the ballot. I request that my name be printed upon the applicable official ballots.

270 (Signed) _____

271 Subscribed and sworn to (or affirmed) before me by _____ on this
272 _____(month\day\year).

273 (Signed) _____ (Clerk or other officer qualified to administer oath)"

274 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that
275 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not

276 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
277 for municipal office by submitting a petition signed by:

- 278 (i) 25 residents of the municipality who are at least 18 years old; or
- 279 (ii) 20% of the residents of the municipality who are at least 18 years old.

280 (b) (i) The petition shall substantially conform to the following form:

281 "NOMINATION PETITION

282 The undersigned residents of (name of municipality) being 18 years old or older
283 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
284 applicable)."

285 (ii) The remainder of the petition shall contain lines and columns for the signatures of
286 persons signing the petition and their addresses and telephone numbers.

287 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized
288 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
289 (2)(b), any registered voter may be nominated for municipal office by submitting a petition
290 signed by the same percentage of registered voters in the municipality as required by the
291 ordinance passed under authority of Subsection (2)(b).

292 (b) (i) The petition shall substantially conform to the following form:

293 "NOMINATION PETITION

294 The undersigned residents of (name of municipality) being 18 years old or older
295 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
296 whichever is applicable)."

297 (ii) The remainder of the petition shall contain lines and columns for the signatures of
298 persons signing the petition and their addresses and telephone numbers.

299 (7) If the declaration of candidacy or nomination petition fails to state whether the
300 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
301 the four-year term.

302 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
303 voters.

304 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
305 print the candidate's name on the ballot.

306 (9) Immediately after expiration of the period for filing a declaration of candidacy, the

307 clerk shall:

308 (a) cause the names of the candidates as they will appear on the ballot to be published
309 in at least two successive publications of a newspaper with general circulation in the
310 municipality; and

311 (b) notify the lieutenant governor of the names of the candidates as they will appear on
312 the ballot.

313 (10) (a) A declaration of candidacy or nomination petition filed under this section is
314 valid unless a written objection is filed with the clerk within five days after the last day for
315 filing.

316 (b) If an objection is made, the clerk shall:

317 (i) mail or personally deliver notice of the objection to the affected candidate
318 immediately; and

319 (ii) decide any objection within 48 hours after it is filed.

320 (c) If the clerk sustains the objection, the candidate may correct the problem by
321 amending the declaration or petition within three days after the objection is sustained or by
322 filing a new declaration within three days after the objection is sustained.

323 (d) (i) The clerk's decision upon objections to form is final.

324 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
325 prompt application is made to the district court.

326 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
327 of its discretion, agrees to review the lower court decision.

328 (11) Any person who filed a declaration of candidacy and was nominated, and any
329 person who was nominated by a nomination petition, may, any time up to 23 days before the
330 election, withdraw the nomination by filing a written affidavit with the clerk.

331 **Section 4. Effective date.**

332 If approved by two-thirds of all the members elected to each house, this bill takes effect
333 upon approval by the governor, or the day following the constitutional time limit of Utah
334 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
335 the date of veto override.

Legislative Review Note
as of 12-6-06 2:58 PM

Office of Legislative Research and General Counsel

H.B. 303 - Campaign Finance Filing Requirements

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/25/2007, 3:07:06 PM, Lead Analyst: Ricks, G.

Office of the Legislative Fiscal Analyst