

1                                   **CAMPAIGN FINANCE FILING**

2   **REQUIREMENTS**

3   2008 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Gregory H. Hughes**

6   Senate Sponsor: Sheldon L. Killpack

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8   **LONG TITLE**

9   **General Description:**

10                   This bill modifies the Election Code, the Utah Municipal Code, and provisions related to  
11   counties in order to amend certain requirements for compliance with election-related  
12   financial reporting provisions.

13   **Highlighted Provisions:**

14                   This bill:

15                   ▶ requires strict compliance for filing deadlines when a petition is brought to the  
16   district court regarding compliance with campaign and judicial retention election  
17   finance reporting provisions;

18                   ▶ requires the election filing officer to provide each person that files a valid declaration  
19   of candidacy with a copy of current campaign financial disclosure laws and to inform  
20   the person that failure to comply will result in disqualification as a candidate and  
21   removal of the person's name from the ballot;

22                   ▶ requires the person filing, in the declaration of candidacy, to promise to file all  
23   financial disclosure reports as required by law and to acknowledge that failure to do  
24   so will result in the person's disqualification for the office and removal of the  
25   person's name from the ballot; and

26                   ▶ makes technical changes.

27   **Monies Appropriated in this Bill:**

28                   None

29   **Other Special Clauses:**

30 This bill provides an immediate effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **20A-1-404**, as enacted by Laws of Utah 1993, Chapter 1

34 **20A-9-201**, as last amended by Laws of Utah 2007, Chapters 83, and 97

35 **20A-9-203**, as last amended by Laws of Utah 2007, Chapters 83, 97, and 256



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

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

39 **20A-1-404. Election controversies.**

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

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

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

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

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

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

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

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

54 (B) Section 17-16-6.5, regarding campaign finance statements for county offices;

55 (C) Title 20A, Chapter 11, Part 2, State Office Candidates - Campaign Organization

56 and Financial Reporting Requirements;

57 (D) Title 20A, Chapter 11, Part 3, Candidates for Legislative Office - Campaign

58 Organization and Financial Reporting Requirements;

59 (E) Title 20A, Chapter 11, Part 4, Officeholder Financial Reporting Requirements;

60 (F) Title 20A, Chapter 11, Part 5, Political Party Registration and Financial Reporting  
61 Requirements;

62 (G) Title 20A, Chapter 11, Part 6, Political Action Committee Registration and  
63 Financial Reporting Requirements;

64 (H) Title 20A, Chapter 11, Part 7, Campaign Financial Reporting by Corporations;

65 (I) Title 20A, Chapter 11, Part 8, Political Issues Committees - Registration and  
66 Financial Reporting;

67 (J) Title 20A, Chapter 11, Part 13, State and Local School Board Candidates; and

68 (K) Title 20A, Chapter 12, Part 3, Campaign and Financial Reporting Requirements for  
69 Judicial Retention Elections; and

70 (ii) substantial compliance with [the] all other provisions of this title by the parties to  
71 the controversy; and

72 (c) make and enter orders and judgments, and issue the process of the court to enforce  
73 all of those orders and judgments.

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

75 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**  
76 **more than one political party prohibited with exceptions -- General filing and form**  
77 **requirements.**

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

79 (a) be a United States citizen; and

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

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

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

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

85 (b) A person may file a declaration of candidacy for, or be a candidate for, President or

86 Vice President of the United States and another office, if the person resigns the person's  
87 candidacy for the other office after the person is officially nominated for President or Vice  
88 President of the United States.

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

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

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

95 (B) require the candidate to state whether or not the candidate meets those  
96 requirements.

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

99 (A) a United States citizen;

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

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

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

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

109 (A) a United States citizen;

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

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

113 (D) a current resident of the prosecution district in which he is seeking office and either

114 will have been a resident of that prosecution district for at least one year as of the date of the  
115 election or was appointed and is currently serving as district attorney and became a resident of  
116 the prosecution district within 30 days after receiving appointment to the office.

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

119 (A) as of the date of filing:

120 (I) is a United States citizen;

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

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

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

126 (IV) is qualified to be certified as a law enforcement officer, as defined in Section  
127 53-13-103; and

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

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

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

135 (i) inform the candidate that the candidate's name will appear on the ballot as it is  
136 written on the declaration of candidacy;

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

140 [~~ii~~] (iii) provide the candidate with a copy of Section 20A-7-801 regarding the  
141 Statewide Electronic Voter Information Website Program and inform the candidate of the

142 submission deadline under Subsection 20A-7-801(4)(a);

143 ~~[(iii)]~~ (iv) provide the candidate with a copy of the pledge of fair campaign practices  
144 described under Section 20A-9-206 and inform the candidate that:

145 (A) signing the pledge is voluntary; and

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

147 ~~[(iv)]~~ (v) accept the candidate's declaration of candidacy; and

148 ~~[(v)]~~ (vi) if the candidate has filed for a partisan office, provide a certified copy of the  
149 declaration of candidacy to the chair of the county or state political party of which the candidate  
150 is a member.

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

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

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

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

159 "State of Utah, County of \_\_\_\_\_

160 I, \_\_\_\_\_, declare my intention of becoming a candidate for the office of \_\_\_\_\_

161 as a candidate for the \_\_\_\_\_ party. I do solemnly swear that: I ~~[can qualify]~~ will meet the

162 qualifications to hold ~~[that]~~ the office, both legally and constitutionally, if selected; I reside at

163 \_\_\_\_\_ in the City or Town of \_\_\_\_\_, Utah, Zip Code \_\_\_\_\_ Phone No. \_\_\_\_\_; I will not

164 knowingly violate any law governing campaigns and elections; ~~[and I will qualify for the office if~~

165 ~~elected to it.]~~ I will file all campaign financial disclosure reports as required by law; and I

166 understand that failure to do so will result in my disqualification as a candidate for this office

167 and removal of my name from the ballot. The mailing address that I designate for receiving

168 official election notices is \_\_\_\_\_.

169 \_\_\_\_\_

170 Subscribed and sworn before me this \_\_\_\_\_(month\day\year).  
171 Notary Public (or other officer qualified to administer oath.)"

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

173 (i) \$25 for candidates for the local school district board; and

174 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person  
175 holding the office, but not less than \$5, for all other federal, state, and county offices.

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

178 (i) who is disqualified; or

179 (ii) who the filing officer determines has filed improperly.

180 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received  
181 from candidates.

182 (ii) The lieutenant governor shall:

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

185 (B) ensure that each county receives that proportion of the total amount paid to the  
186 lieutenant governor from the congressional district that the total vote of that county for all  
187 candidates for representative in Congress bears to the total vote of all counties within the  
188 congressional district for all candidates for representative in Congress.

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

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

194 "Affidavit of Impecuniosity

195 Individual Name

196 \_\_\_\_\_Address\_\_\_\_\_

197 Phone Number \_\_\_\_\_

198 I, \_\_\_\_\_(name), do solemnly [swear] [affirm] that, owing to my  
199 poverty, I am unable to pay the filing fee required by law.

200 Date \_\_\_\_\_ Signature \_\_\_\_\_

201 Affiant

202 Subscribed and sworn to before me on \_\_\_\_\_ (month\day\year)

203 \_\_\_\_\_  
204 (signature)

205 Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_"

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

208 (8) A declaration of candidacy filed under this section may not be amended or modified  
209 after the final date established for filing a declaration of candidacy.

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

211 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

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

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

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

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

222 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally  
223 incompetent person, any person convicted of a felony, or any person convicted of treason or a  
224 crime against the elective franchise may not hold office in this state until the right to hold  
225 elective office is restored under Section 20A-2-101.5.



226 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to  
227 become a candidate for a municipal office shall:

228 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during  
229 office hours and not later than 5 p.m. between July 1 and July 15 of any odd numbered year; and

230 (ii) pay the filing fee, if one is required by municipal ordinance.

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

233 (ii) A third, fourth, or fifth class city that used the convention system to nominate  
234 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the  
235 process contained in this Subsection (2)(b) in the last municipal election or a town that used the  
236 convention system to nominate candidates in the last municipal election as authorized by  
237 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last  
238 municipal election may, by ordinance, require, in lieu of the convention system, that candidates  
239 for municipal office file a nominating petition signed by a percentage of registered voters at the  
240 same time that the candidate files a declaration of candidacy.

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

244 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

245 (i) filing a nomination petition with the city recorder or town clerk during office hours,  
246 but not later than 5 p.m., between July 1 and July 15 of any odd-numbered year; and

247 (ii) paying the filing fee, if one is required by municipal ordinance.

248 (d) When July 15 is a Saturday, Sunday, or holiday, the filing time shall be extended  
249 until 5 p.m. on the following regular business day.

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

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

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

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

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

260 (i) inform the candidate that the candidate's name will appear on the ballot as it is  
261 written on the declaration of candidacy;

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

265 [~~(ii)~~] (iii) provide the candidate with a copy of Section 20A-7-801 regarding the  
266 Statewide Electronic Voter Information Website Program and inform the candidate of the  
267 submission deadline under Subsection 20A-7-801(4)(a);

268 [~~(iii)~~] (iv) provide the candidate with a copy of the pledge of fair campaign practices  
269 described under Section 20A-9-206 and inform the candidate that:

270 (A) signing the pledge is voluntary; and

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

272 [~~(iv)~~] (v) accept the declaration of candidacy or nomination petition.

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

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

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

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

280 "I, (print name) \_\_\_\_, being first sworn, say that I reside at \_\_\_\_ Street, City of \_\_\_\_,  
281 County of \_\_\_\_, state of Utah, Zip Code \_\_\_\_, Telephone Number (if any) \_\_\_\_; that I am a

282 registered voter; and that I am a candidate for the office of \_\_\_\_ (stating the term). I will meet  
283 the legal qualifications required of candidates for this office. I will file all campaign financial  
284 disclosure reports as required by law and I understand that failure to do so will result in my  
285 disqualification as a candidate for this office and removal of my name from the ballot. I request  
286 that my name be printed upon the applicable official ballots. (Signed) \_\_\_\_\_

287 Subscribed and sworn to (or affirmed) before me by \_\_\_\_ on this  
288 \_\_\_\_\_(month\day\year).

289 (Signed) \_\_\_\_\_ (Clerk or other officer qualified to administer oath)"

290 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that  
291 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not  
292 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated  
293 for municipal office by submitting a petition signed by:

- 294 (i) 25 residents of the municipality who are at least 18 years old; or
- 295 (ii) 20% of the residents of the municipality who are at least 18 years old.
- 296 (b) (i) The petition shall substantially conform to the following form:

297 "NOMINATION PETITION

298 The undersigned residents of (name of municipality) being 18 years old or older  
299 nominate (name of nominee) to the office of \_\_\_\_ for the (two or four-year term, whichever is  
300 applicable)."

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

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

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

309 "NOMINATION PETITION

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

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

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

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

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

322           (9) Immediately after expiration of the period for filing a declaration of candidacy, the  
323 clerk shall:

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

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

329           (10) A declaration of candidacy or nomination petition filed under this section may not  
330 be amended after the expiration of the period for filing a declaration of candidacy.

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

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

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

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

337           (c) If the clerk sustains the objection, the candidate may correct the problem by

338 amending the declaration or petition within three days after the objection is sustained or by filing  
339 a new declaration within three days after the objection is sustained.

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

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

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

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

348 Section 4. **Effective date.**

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