

**VOTER ACCOUNTABILITY IN POLITICAL  
SUBDIVISIONS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill provides for municipal retention elections.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes procedures and requirements for a qualified municipal appointee retention election;
- ▶ requires a county, city, or town clerk to submit information for the voter information pamphlet;
- ▶ allows a qualified municipal appointee to establish a personal campaign committee;
- ▶ requires a qualified municipal appointee to have a separate bank account for campaign funds;
- ▶ establishes reporting requirements for a qualified municipal appointee's campaign contributions and expenditures;
- ▶ establishes penalties for a qualified municipal appointee who does not comply with reporting requirements;
- ▶ establishes procedures and requirements for a municipal governance retention election;
- ▶ establishes requirements for a city council in a municipality whose voters voted not



28 to retain the municipality's form of government; and  
29       ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       None

34 **Utah Code Sections Affected:**

35 AMENDS:

36       **10-3b-303**, as last amended by Laws of Utah 2011, Chapter 209

37       **10-3b-403**, as last amended by Laws of Utah 2011, Chapter 209

38       **20A-6-305**, as enacted by Laws of Utah 2011, Chapter 292

39       **20A-7-702**, as last amended by Laws of Utah 2013, Chapter 320

40       **20A-7-801**, as last amended by Laws of Utah 2013, Chapters 182, 219 and last  
41 amended by Coordination Clause, Laws of Utah 2013, Chapter 182

42       **20A-11-103**, as last amended by Laws of Utah 2012, Chapter 369

43 ENACTS:

44       **10-3-304**, Utah Code Annotated 1953

45       **10-3b-502.1**, Utah Code Annotated 1953

46       **20A-12a-101**, Utah Code Annotated 1953

47       **20A-12a-102**, Utah Code Annotated 1953

48       **20A-12a-201**, Utah Code Annotated 1953

49       **20A-12a-202**, Utah Code Annotated 1953

50       **20A-12a-203**, Utah Code Annotated 1953

51       **20A-12a-204**, Utah Code Annotated 1953

52       **20A-12a-205**, Utah Code Annotated 1953



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

55       Section 1. Section **10-3-304** is enacted to read:

56       **10-3-304. Interim appointee -- appointee replacement.**

57       (1) As used in this section:

58       (a) "Interim qualified municipal appointee" is as defined in Section [20A-12a-101](#).

59 (b) "Qualified municipal appointee" is as defined in Section [20A-12a-101](#).

60 (c) "Qualified municipal office" is as defined in Section [20A-12a-101](#).

61 (2) The city council of a municipality in which a vacancy occurs under Section  
62 20A-12a-102 in a qualified municipal office shall select an interim qualified municipal  
63 appointee within two weeks after the day on which the vacancy occurs.

64 (3) When a vacancy is created under Section [20A-12a-102](#) in a qualified municipal  
65 office, the city council:

66 (a) except as provided in Subsection (5), may not select an individual to permanently  
67 fill the vacancy until after January 1 of the year following the municipal general election that  
68 resulted in the vacancy; and

69 (b) shall appoint an individual to permanently fill the vacancy within a reasonable  
70 period of time not to exceed 180 days from the day on which the vacancy occurs.

71 (4) The term of an interim qualified municipal appointee selected under Subsection (2)  
72 ends on the day on which an individual selected under Subsection (3) takes office.

73 (5) If all of a municipality's city council members, whose terms of office end on  
74 January 1 after the day on which a vacancy occurs under Section [20A-12a-102](#), are reelected to  
75 the city council for the following term, the city council may fill the vacancy at any time within  
76 180 days after the day on which the vacancy occurs.

77 (6) Nothing in this section prohibits a city council from removing any qualified  
78 municipal appointee in accordance with the city council's statutory authority.

79 Section 2. Section **10-3b-303** is amended to read:

80 **10-3b-303. Council in six-member council form of government.**

81 (1) The council in a municipality operating under a six-member council form of  
82 government:

83 (a) exercises any executive or administrative power and performs or supervises the  
84 performance of any executive or administrative duty or function that:

85 (i) has not been given to the mayor under Section [10-3b-104](#); or

86 (ii) has been given to the mayor under Section [10-3b-104](#) but is removed from the  
87 mayor under Subsection (1)(b)(i)(A);

88 (b) may:

89 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

90 (A) removing from the mayor any power, duty, or function of the mayor under Section  
91 10-3b-104; or

92 (B) reinstating to the mayor any power, duty, or function previously removed under  
93 Subsection (1)(b)(i)(A);

94 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,  
95 duty, or function that the council has under Subsection (1)(a);

96 (iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):

97 (A) appoint, subject to Subsections (3) and (4), a manager to perform executive and  
98 administrative duties or functions that the council by ordinance delegates to the manager,  
99 subject to Subsection (1)(c); and

100 (B) dismiss a manager appointed under Subsection (1)(b)(iii)(A); and

101 (iv) assign any or all council members, including the mayor, to supervise one or more  
102 administrative departments of the municipality; and

103 (c) may not remove from the mayor or delegate to a manager appointed by the council:

104 (i) any of the mayor's legislative or judicial powers or ceremonial functions;

105 (ii) the mayor's position as chair of the council; or

106 (iii) any ex officio position that the mayor holds.

107 (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to  
108 the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative  
109 vote of:

110 (a) the mayor and a majority of all other council members; or

111 (b) all council members except the mayor.

112 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of  
113 time that:

114 (i) begins on the day on which a municipal general election described in Section  
115 10-3-201 is held to elect a council member; and

116 (ii) ends on the day on which the council member-elect begins the council member's  
117 term.

118 (b) (i) The council may not appoint a manager or a municipal attorney during an  
119 interim vacancy period.

120 (ii) Notwithstanding Subsection (3)(b)(i):

121 (A) the council may appoint an interim manager or an interim municipal attorney  
122 during an interim vacancy period; and

123 (B) the interim manager's or interim municipal attorney's term shall expire once a new  
124 manager or municipal attorney is appointed by the new administration after the interim vacancy  
125 period has ended.

126 (c) Subsection (3)(b) does not apply if all the council members who held office on the  
127 day of the municipal general election whose term of office was vacant for the election are  
128 re-elected to the council for the following term.

129 (4) A council that appoints a manager in accordance with this section may not, on or  
130 after May 10, 2011, enter into an employment contract that contains an automatic renewal  
131 provision with the manager.

132 Section 3. Section **10-3b-403** is amended to read:

133 **10-3b-403. Council in a five-member council form of government.**

134 (1) The council in a municipality operating under a five-member council form of  
135 municipal government:

136 (a) exercises any executive or administrative power and performs or supervises the  
137 performance of any executive or administrative duty or function that:

138 (i) has not been given to the mayor under Section 10-3b-104; or

139 (ii) has been given to the mayor under Section 10-3b-104 but is removed from the  
140 mayor under Subsection (1)(b)(i)(A);

141 (b) may:

142 (i) subject to Subsections (1)(c) and (2), adopt an ordinance:

143 (A) removing from the mayor any power, duty, or function of the mayor under Section  
144 10-3b-104; and

145 (B) reinstating to the mayor any power, duty, or function previously removed under  
146 Subsection (1)(b)(i)(A);

147 (ii) adopt an ordinance delegating to the mayor any executive or administrative power,  
148 duty, or function that the council has under Subsection (1)(a);

149 (iii) subject to Subsections (3) and (4), appoint a manager to perform executive and  
150 administrative duties or functions that the council by ordinance delegates to the manager,  
151 subject to Subsection (1)(c);

- 152 (iv) dismiss a manager appointed under Subsection (1)(b)(iii); and
- 153 (v) assign any or all council members, including the mayor, to supervise one or more
- 154 administrative departments of the municipality; and
- 155 (c) may not remove from the mayor or delegate to a manager appointed by the council:
- 156 (i) any of the mayor's legislative or judicial powers or ceremonial functions;
- 157 (ii) the mayor's position as chair of the council; or
- 158 (iii) any ex officio position that the mayor holds.
- 159 (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to
- 160 the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative
- 161 vote of:
- 162 (a) the mayor and a majority of all other council members; or
- 163 (b) all council members except the mayor.
- 164 (3) (a) As used in this Subsection (3), "interim vacancy period" means the period of
- 165 time that:
- 166 (i) begins on the day on which a municipal general election described in Section
- 167 10-3-201 is held to elect a council member; and
- 168 (ii) ends on the day on which the council member-elect begins the council member's
- 169 term.
- 170 (b) (i) The council may not appoint a manager or a municipal attorney during an
- 171 interim vacancy period.
- 172 (ii) Notwithstanding Subsection (3)(b)(i):
- 173 (A) the council may appoint an interim manager or an interim municipal attorney
- 174 during an interim vacancy period; and
- 175 (B) the interim manager's or interim municipal attorney's term shall expire once a new
- 176 manager or a new municipal attorney is appointed by the new administration after the interim
- 177 vacancy period has ended.
- 178 (c) Subsection (3)(b) does not apply if all the council members who held office on the
- 179 day of the municipal general election whose term of office was vacant for the election are
- 180 re-elected to the council for the following term.
- 181 (4) A council that appoints a manager in accordance with this section may not, on or
- 182 after May 10, 2011, enter into an employment contract that contains an automatic renewal

183 provision with the manager.

184 Section 4. Section **10-3b-502.1** is enacted to read:

185 **10-3b-502.1. Municipal governance retention election.**

186 (1) As used in this section, "municipal governance retention election" means an  
187 election held by a municipality for the purpose of determining whether the municipality should  
188 retain the municipality's current form of government.

189 (2) (a) Except as provided in Subsection (2)(b), a municipality that has the  
190 municipality's municipal classification changed under Subsection [67-1a-2\(3\)\(b\)](#) or (c) shall,  
191 during the next municipal general election, hold a municipal governance retention election.

192 (b) If the classification change described in Subsection (2)(a) occurs fewer than 60  
193 days before the next municipal general election, the municipality shall hold a municipal  
194 governance retention election during the municipal general election following the next  
195 municipal general election.

196 (3) Each municipality for which the municipal classification was changed under  
197 Subsection [67-1a-2\(3\)\(b\)](#) or (c) within the period beginning on May 13, 2004, and ending on  
198 May 13, 2014, shall hold a municipal governance retention election at the next regular  
199 municipal election.

200 (4) The ballot for a municipal governance retention election shall:

201 (a) state the ballot question substantially as follows: "Shall (state the municipality's  
202 name), Utah retain its current form of government as a (state the municipality's current form of  
203 government as described in Title 10, Chapter 3b, Forms of Municipal Government)"; and

204 (b) provide a space or method for the voter to vote "yes" or "no."

205 (5) (a) If the ballot question in Subsection (4) receives more "yes" votes than "no"  
206 votes, or an equal amount of "yes" and "no" votes, the municipality's form of government is  
207 retained.

208 (b) If the ballot question in Subsection (4) receives more "no" votes than "yes" votes,  
209 the municipality's council shall:

210 (i) hold at least two public hearings to determine which form of government the  
211 municipality should adopt; and

212 (ii) within 180 days after the municipal governance retention election, adopt a  
213 resolution proposing a change in the municipality's form of government.

214 (6) A resolution adopted under Subsection (5) shall conform with the requirements of a  
215 resolution adopted by a city council under Section [10-3b-503](#).

216 Section 5. Section **20A-6-305** is amended to read:

217 **20A-6-305. Master ballot position list -- Random selection -- Procedures --**  
218 **Publication -- Surname -- Exemptions.**

219 (1) As used in this section, "master ballot position list" means an official list of the 26  
220 characters in the alphabet listed in random order and numbered from one to 26 as provided  
221 under Subsection (2).

222 (2) The lieutenant governor shall:

223 (a) at the beginning of each general election year conduct a random selection to  
224 establish the master ballot position list for the current year and the next year in accordance with  
225 procedures established under Subsection (2)(c);

226 (b) publish the master ballot position lists on the lieutenant governor's election website  
227 on or before February 1 in each regular general election year; and

228 (c) establish written procedures for:

229 (i) the election official to use the master ballot position list; and

230 (ii) the lieutenant governor in:

231 (A) conducting the random selection in a fair manner; and

232 (B) providing a record of the random selection process used.

233 (3) In accordance with the written procedures established under Subsection (2)(c)(i), an  
234 election officer shall use the master ballot position list for the current year to determine the  
235 order in which to list candidates on the ballot for an election held during the year.

236 (4) To determine the order in which to list candidates on the ballot required under  
237 Subsection (3), the election officer shall apply the randomized alphabet using:

238 (a) the candidate's surname;

239 (b) for candidates with a surname that has the same spelling, the candidate's given  
240 name;

241 (c) the surname of the president and the surname of the governor for an election for the  
242 offices of president and vice president and governor and lieutenant governor; and

243 (d) if the ballot provides for a ticket or a straight party ticket, the registered political  
244 party name.



- 245 (5) This section does not apply to:
- 246 (a) an election for an office for which only one candidate is listed on the ballot; [or]
- 247 (b) a judicial retention election under Section [20A-12-201](#)[.]; or
- 248 (c) a municipal retention election under Section [20A-12a-102](#).
- 249 Section 6. Section **20A-7-702** is amended to read:
- 250 **20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.**
- 251 (1) The lieutenant governor shall ensure that all information submitted for publication
- 252 in the voter information pamphlet is:
- 253 (a) printed and bound in a single pamphlet;
- 254 (b) printed in clear readable type, no less than 10 point, except that the text of any
- 255 measure may be set forth in eight-point type; and
- 256 (c) printed on a quality and weight of paper that best serves the voters.
- 257 (2) The voter information pamphlet shall contain the following items in this order:
- 258 (a) a cover title page;
- 259 (b) an introduction to the pamphlet by the lieutenant governor;
- 260 (c) a table of contents;
- 261 (d) a list of all candidates for constitutional offices;
- 262 (e) a list of candidates for each legislative district;
- 263 (f) a 100-word statement of qualifications for each candidate for the office of governor,
- 264 lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the
- 265 candidate to the lieutenant governor's office before 5 p.m. on the date that falls 105 days before
- 266 the date of the election;
- 267 (g) information pertaining to all measures to be submitted to the voters, beginning a
- 268 new page for each measure and containing, in the following order for each measure:
- 269 (i) a copy of the number and ballot title of the measure;
- 270 (ii) the final vote cast by the Legislature on the measure if it is a measure submitted by
- 271 the Legislature or by referendum;
- 272 (iii) the impartial analysis of the measure prepared by the Office of Legislative
- 273 Research and General Counsel;
- 274 (iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the
- 275 measure, the arguments against the measure, and the rebuttal to the arguments against the

276 measure, with the name and title of the authors at the end of each argument or rebuttal;

277 (v) for each constitutional amendment, a complete copy of the text of the constitutional  
278 amendment, with all new language underlined, and all deleted language placed within brackets;

279 (vi) for each initiative qualified for the ballot, a copy of the measure as certified by the  
280 lieutenant governor and a copy of the fiscal impact estimate prepared according to Section  
281 [20A-7-202.5](#); and

282 (vii) for each referendum qualified for the ballot, a complete copy of the text of the law  
283 being submitted to the voters for their approval or rejection, with all new language underlined  
284 and all deleted language placed within brackets, as applicable;

285 (h) a description provided by the Judicial Performance Evaluation Commission of the  
286 selection and retention process for judges, including, in the following order:

287 (i) a description of the judicial selection process;

288 (ii) a description of the judicial performance evaluation process;

289 (iii) a description of the judicial retention election process;

290 (iv) a list of the criteria of the judicial performance evaluation and the minimum  
291 performance standards;

292 (v) the names of the judges standing for retention election; and

293 (vi) for each judge:

294 (A) a list of the counties in which the judge is subject to retention election;

295 (B) a short biography of professional qualifications and a recent photograph;

296 (C) a narrative concerning the judge's performance;

297 (D) for each standard of performance, a statement identifying whether or not the judge  
298 met the standard and, if not, the manner in which the judge failed to meet the standard;

299 (E) a statement identifying whether or not the Judicial Performance Evaluation  
300 Commission recommends the judge be retained or declines to make a recommendation and the  
301 number of votes for and against the commission's recommendation;

302 (F) any statement provided by a judge who is not recommended for retention by the  
303 Judicial Performance Evaluation Commission under Section [78A-12-203](#);

304 (G) in a bar graph, the average of responses to each survey category, displayed with an  
305 identification of the minimum acceptable score as set by Section [78A-12-205](#) and the average  
306 score of all judges of the same court level; and

307 (H) a website address that contains the Judicial Performance Evaluation Commission's  
308 report on the judge's performance evaluation;

309 (i) for each judge, a statement provided by the Utah Supreme Court identifying the  
310 cumulative number of informal reprimands, when consented to by the judge in accordance with  
311 Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of  
312 censure and suspension issued by the Utah Supreme Court under Utah Constitution Article  
313 VIII, Section 13, during the judge's current term and the immediately preceding term, and a  
314 detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct  
315 that the judge has received;

316 (j) for each city manager or municipal attorney standing for retention election, a  
317 statement from the clerk of the municipality in which the city manager or municipal attorney  
318 holds office containing:

319 (i) the name of the municipality in which the city manager or municipal attorney holds  
320 office;

321 (ii) a short biography of the city manager's or municipal attorney's professional  
322 qualifications; and

323 (iii) a recent photograph of the city manager or municipal attorney;

324 ~~[(j)]~~ (k) an explanation of ballot marking procedures prepared by the lieutenant  
325 governor, indicating the ballot marking procedure used by each county and explaining how to  
326 mark the ballot for each procedure;

327 ~~[(k)]~~ (l) voter registration information, including information on how to obtain an  
328 absentee ballot;

329 ~~[(l)]~~ (m) a list of all county clerks' offices and phone numbers; and

330 ~~[(m)]~~ (n) on the back cover page, a printed copy of the following statement signed by  
331 the lieutenant governor:

332 "I, \_\_\_\_\_ (print name), Lieutenant Governor of Utah, certify that the  
333 measures contained in this pamphlet will be submitted to the voters of Utah at the election to  
334 be held throughout the state on \_\_\_\_ (date of election), and that this pamphlet is complete and  
335 correct according to law.

336 SEAL

337 Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this \_\_\_\_ day

338 of \_\_\_\_ (month), \_\_\_\_ (year)

339 (signed) \_\_\_\_\_

340 Lieutenant Governor"

341 (3) No earlier than 75 days, and no later than 15 days, before the day on which voting  
342 commences, the lieutenant governor shall:

343 (a) (i) distribute one copy of the voter information pamphlet to each household within  
344 the state;

345 (ii) distribute to each household within the state a notice:

346 (A) printed on a postage prepaid, preaddressed return form that a person may use to  
347 request delivery of a voter information pamphlet by mail;

348 (B) that states the address of the Statewide Electronic Voter Information Website  
349 authorized by Section 20A-7-801; and

350 (C) that states the phone number a voter may call to request delivery of a voter  
351 information pamphlet by mail; or

352 (iii) ensure that one copy of the voter information pamphlet is placed in one issue of  
353 every newspaper of general circulation in the state;

354 (b) ensure that a sufficient number of printed voter information pamphlets are available  
355 for distribution as required by this section;

356 (c) provide voter information pamphlets to each county clerk for free distribution upon  
357 request and for placement at polling places; and

358 (d) ensure that the distribution of the voter information pamphlets is completed 15 days  
359 before the election.

360 (4) The lieutenant governor may distribute a voter information pamphlet at a location  
361 frequented by a person who cannot easily access the Statewide Electronic Voter Information  
362 Website authorized by Section 20A-7-801.

363 (5) The lieutenant governor shall:

364 (a) conduct a study to evaluate the effectiveness of the notice authorized by this  
365 section; and

366 (b) provide the results of a study described in Subsection (5)(a) to the Government  
367 Operations Interim Committee by October 1, 2013.

368 Section 7. Section 20A-7-801 is amended to read:

369           **20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of**  
370 **the lieutenant governor -- Content -- Duties of local election officials -- Deadlines --**  
371 **Frequently asked voter questions -- Other elections.**

372           (1) There is established the Statewide Electronic Voter Information Website Program  
373 administered by the lieutenant governor in cooperation with the county clerks for general  
374 elections and municipal authorities for municipal elections.

375           (2) In accordance with this section, and as resources become available, the lieutenant  
376 governor, in cooperation with county clerks, shall develop, establish, and maintain a  
377 state-provided Internet website designed to help inform the voters of the state of:

378           (a) the offices and candidates up for election; and

379           (b) the content, effect, operation, fiscal impact, and supporting and opposing arguments  
380 of ballot propositions submitted to the voters.

381           (3) Except as provided under Subsection (6), the website shall include:

382           (a) all information currently provided in the Utah voter information pamphlet under  
383 Title 20A, Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared,  
384 analyzed, and submitted by the Judicial Council describing the judicial selection and retention  
385 process;

386           (b) all information submitted by election officers under Subsection (4) on local office  
387 races, local office candidates, and local ballot propositions;

388           (c) a list that contains the name of a political subdivision that operates an election day  
389 voting center under Section [20A-3-703](#) and the location of the election day voting center;

390           (d) other information determined appropriate by the lieutenant governor that is  
391 currently being provided by law, rule, or ordinance in relation to candidates and ballot  
392 questions; and

393           (e) any differences in voting method, time, or location designated by the lieutenant  
394 governor under Subsection [20A-1-308\(2\)](#).

395           (4) (a) An election official shall submit the following information for each ballot label  
396 under the election official's direct responsibility under this title:

397           (i) a list of all candidates for each office;

398           (ii) if submitted by the candidate to the election official's office at 5 p.m. at least 45  
399 days before the primary election and 60 days before the general election:

- 400 (A) a statement of qualifications, not exceeding 200 words in length, for each
- 401 candidate;
- 402 (B) the following current biographical information if desired by the candidate, current:
- 403 (I) age;
- 404 (II) occupation;
- 405 (III) city of residence;
- 406 (IV) years of residence in current city; and
- 407 (V) email address; and
- 408 (C) a single web address where voters may access more information about the
- 409 candidate and the candidate's views; and
- 410 (iii) factual information pertaining to all ballot propositions submitted to the voters,
- 411 including:
  - 412 (A) a copy of the number and ballot title of each ballot proposition;
  - 413 (B) the final vote cast for each ballot proposition, if any, by a legislative body if the
  - 414 vote was required to place the ballot proposition on the ballot;
  - 415 (C) a complete copy of the text of each ballot proposition, with all new language
  - 416 underlined and all deleted language placed within brackets; and
  - 417 (D) other factual information determined helpful by the election official.
- 418 (b) The information under Subsection (4)(a) shall be submitted to the lieutenant
- 419 governor no later than one business day after the deadline under Subsection (4)(a) for each
- 420 general election year and each municipal election year.
- 421 (c) The lieutenant governor shall:
  - 422 (i) review the information submitted under this section, to determine compliance under
  - 423 this section, prior to placing it on the website;
  - 424 (ii) refuse to post information submitted under this section on the website if it is not in
  - 425 compliance with the provisions of this section; and
  - 426 (iii) organize, format, and arrange the information submitted under this section for the
  - 427 website.
- 428 (d) The lieutenant governor may refuse to include information the lieutenant governor
- 429 determines is not in keeping with:
  - 430 (i) Utah voter needs;

431 (ii) public decency; or

432 (iii) the purposes, organization, or uniformity of the website.

433 (e) A refusal under Subsection (4)(d) is subject to appeal in accordance with  
434 Subsection (5).

435 (5) (a) A person whose information is refused under Subsection (4), and who is  
436 aggrieved by the determination, may appeal by submitting a written notice of appeal to the  
437 lieutenant governor within 10 business days after the date of the determination. A notice of  
438 appeal submitted under this Subsection (5)(a) shall contain:

439 (i) a listing of each objection to the lieutenant governor's determination; and

440 (ii) the basis for each objection.

441 (b) The lieutenant governor shall review the notice of appeal and shall issue a written  
442 response within 10 business days after the notice of appeal is submitted.

443 (c) An appeal of the response of the lieutenant governor shall be made to the district  
444 court, which shall review the matter de novo.

445 (6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently  
446 enter the voter's address information on the website to retrieve information on which offices,  
447 candidates, and ballot propositions will be on the voter's ballot at the next general election or  
448 municipal election.

449 (b) The information on the website will anticipate and answer frequent voter questions  
450 including the following:

451 (i) what offices are up in the current year for which the voter may cast a vote;

452 (ii) who is running for what office and who is the incumbent, if any;

453 (iii) what address each candidate may be reached at and how the candidate may be  
454 contacted;

455 (iv) for partisan races only, what, if any, is each candidate's party affiliation;

456 (v) what qualifications have been submitted by each candidate;

457 (vi) where additional information on each candidate may be obtained;

458 (vii) what ballot propositions will be on the ballot; [~~and~~]

459 (viii) what judges are up for retention election[?]; and

460 (ix) what city managers or municipal attorneys are up for retention election.

461 (7) As resources are made available and in cooperation with the county clerks, the

462 lieutenant governor may expand the electronic voter information website program to include  
463 the same information as provided under this section for special elections and primary elections.

464 Section 8. Section **20A-11-103** is amended to read:

465 **20A-11-103. Notice of pending interim and summary reports -- Form of**  
466 **submission -- Public availability.**

467 (1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or  
468 summary report is due under this chapter [~~or~~], Chapter 12, Part [~~2, Judicial Retention~~  
469 ~~Elections;~~] 3, Campaign and Financial Reporting Requirements for Judicial Retention  
470 Elections, or Chapter 12a, Part 2, Campaign and Financial Reporting Requirements for  
471 Municipal Retention Elections, the chief election officer shall inform the filing entity by postal  
472 mail or, if requested by the filing entity, by electronic mail:

- 473 (i) that the financial statement is due;  
474 (ii) of the date that the financial statement is due; and  
475 (iii) of the penalty for failing to file the financial statement.

476 (b) The chief election officer is not required to provide notice:

- 477 (i) to a candidate or political party of the financial statement that is due before the  
478 candidate's or political party's political convention;  
479 (ii) of a financial statement due in connection with a public hearing for an initiative  
480 under the requirements of Section [20A-7-204.1](#); or  
481 (iii) to a corporation or labor organization, as defined in Section [20A-11-1501](#).

482 (2) A filing entity shall electronically file a financial statement via electronic mail or  
483 the Internet according to specifications established by the chief election officer.

484 (3) (a) A financial statement is considered timely filed if it is received by the chief  
485 election officer's office before the close of regular office hours on the date that it is due.

486 (b) A chief election officer may extend the time in which a filing entity is required to  
487 file a financial statement if a filing entity notifies the chief election officer of the existence of  
488 an extenuating circumstance that is outside the control of the filing entity.

489 (4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records  
490 Access and Management Act, the lieutenant governor shall:

491 (a) make each campaign finance statement filed by a candidate available for public  
492 inspection and copying no later than one business day after the statement is filed; and



493 (b) post an electronic copy or the contents of each financial statement in a searchable  
494 format on a website established by the lieutenant governor:

495 (i) for campaign finance statements submitted to the lieutenant governor under the  
496 requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after  
497 the date of receipt of the campaign finance statement; or

498 (ii) for a summary report or interim report filed under the requirements of this chapter  
499 or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the  
500 date the summary report or interim report is electronically filed.

501 (5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5,  
502 elects to provide campaign finance disclosure on its own website, rather than through the  
503 lieutenant governor, the website established by the lieutenant governor shall contain a link or  
504 other access point to the municipality or county website.

505 Section 9. Section 20A-12a-101 is enacted to read:

506 **Part 1. Municipal Retention Elections**

507 **20A-12a-101. Definitions.**

508 As used in this chapter:

509 (1) (a) "Contribution" means any of the following when done for a political purpose:

510 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of  
511 value given to a qualified municipal appointee or the qualified municipal appointee's personal  
512 campaign committee;

513 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,  
514 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or  
515 anything of value to a qualified municipal appointee or the qualified municipal appointee's  
516 personal campaign committee;

517 (iii) any transfer of funds from another reporting entity or a corporation to a qualified  
518 municipal appointee or the qualified municipal appointee's personal campaign committee;

519 (iv) compensation paid by any person or reporting entity other than a qualified  
520 municipal appointee or the qualified municipal appointee's personal campaign committee for  
521 personal services provided without charge to the qualified municipal appointee or the qualified  
522 municipal appointee's personal campaign committee; and

523 (v) goods or services provided to or for the benefit of the qualified municipal appointee

524 or the qualified municipal appointee's personal campaign committee at less than fair market  
525 value.

526 (b) "Contribution" does not include:

527 (i) services provided without compensation by individuals volunteering time on behalf  
528 of a qualified municipal appointee or the qualified municipal appointee's personal campaign  
529 committee; or

530 (ii) money lent to a qualified municipal appointee or the qualified municipal  
531 appointee's personal campaign committee by a financial institution in the ordinary course of  
532 business.

533 (2) "Coordinating with" means that goods or services provided for the benefit of a  
534 qualified municipal appointee are provided:

535 (a) with the qualified municipal appointee's or the qualified municipal appointee's  
536 personal campaign committee's prior knowledge, if the qualified municipal appointee or the  
537 qualified municipal appointee's personal campaign committee does not object;

538 (b) by agreement with the qualified municipal appointee or the qualified municipal  
539 appointee's personal campaign committee;

540 (c) in cooperation with the qualified municipal appointee or the qualified municipal  
541 appointee's personal campaign committee; or

542 (d) using official logos, slogans, and similar elements belonging to a qualified  
543 municipal appointee.

544 (3) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business  
545 organization that is registered as a corporation or is authorized to do business in a state and  
546 makes any expenditure from corporate funds for political purposes.

547 (b) "Corporation" does not mean:

548 (i) a business organization's political action committee as defined in Section  
549 20A-11-101 or political issues committee as defined in Section 20A-11-101; or

550 (ii) a business entity organized as a partnership or a sole proprietorship.

551 (4) "Detailed listing" means:

552 (a) for each contribution:

553 (i) the name and address of the individual or source making the contribution;

554 (ii) the amount or value of the contribution; and

- 555 (iii) the date the contribution was made; and  
556 (b) for each expenditure:  
557 (i) the amount of the expenditure;  
558 (ii) the person or entity to whom the expenditure was disbursed;  
559 (iii) the specific purpose, item, or service acquired by the expenditure; and  
560 (iv) the date the expenditure was made.  
561 (5) (a) "Expenditure" means:  
562 (i) any disbursement from contributions or from the separate bank account required by  
563 this chapter;  
564 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,  
565 or anything of value made for political purposes;  
566 (iii) an express, legally enforceable contract, promise, or agreement to make any  
567 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of  
568 value for a political purpose;  
569 (iv) compensation paid by a corporation or reporting entity for personal services  
570 rendered by a person without charge to the qualified municipal appointee or the qualified  
571 municipal appointee's personal campaign committee;  
572 (v) a transfer of funds between the qualified municipal appointee's personal campaign  
573 committee and another qualified municipal appointee's personal campaign committee; or  
574 (vi) goods or services provided by the qualified municipal appointee's personal  
575 campaign committee to or for the benefit of another political candidate for a political purpose  
576 at less than fair market value.  
577 (b) "Expenditure" does not include:  
578 (i) services provided without compensation by individuals volunteering time on behalf  
579 of the qualified municipal appointee or a qualified municipal appointee's personal campaign  
580 committee; or  
581 (ii) money lent to a qualified municipal appointee's personal campaign committee by a  
582 financial institution in the ordinary course of business.  
583 (6) "Interim qualified municipal appointee" means a qualified municipal appointee  
584 selected under Subsection [10-3-304\(2\)](#) to temporarily fill a vacancy in a qualified municipal  
585 office.

586 (7) "Interim report" means a report identifying the contributions received and  
587 expenditures made since the last report.

588 (8) "Personal campaign committee" means the committee appointed by a qualified  
589 municipal appointee to act for the qualified municipal appointee as provided in this chapter.

590 (9) "Political purposes" means an act done with the intent or in a way to influence or  
591 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or  
592 against any qualified municipal appointee standing for retention at any election.

593 (10) "Qualified municipal appointee" means:

594 (a) a city manager appointed under:

595 (i) Section [10-3b-303](#) by a city council in a six-member council form of government;

596 or

597 (ii) Section [10-3b-403](#) by a city council in a five-member council form of government;

598 or

599 (b) a municipal attorney appointed under Title 10, Chapter 3, Part 9, Appointed

600 Officials and Their Duties, by:

601 (i) a city council in a six-member council form of government described in Subsection

602 [10-3b-102\(3\)](#); or

603 (ii) by a city council in a five-member council form of government described in

604 Subsection [10-3b-102\(2\)](#).

605 (11) "Qualified municipal office" means an office held by a qualified municipal

606 appointee.

607 (12) "Reporting entity" means a qualified municipal appointee, a qualified municipal

608 appointee's personal campaign committee, a candidate, a candidate's personal campaign

609 committee, an officeholder, a party committee, a political action committee, or a political

610 issues committee.

611 (13) "Summary report" means the year-end report containing the summary of a

612 reporting entity's contributions and expenditures.

613 Section 10. Section **20A-12a-102** is enacted to read:

614 **20A-12a-102. Municipal appointees -- Retention elections.**

615 (1) (a) Each qualified municipal appointee is subject to an unopposed retention election

616 at the first municipal general election held more than three years after the qualified municipal

617 appointee is appointed.

618 (b) After a qualified municipal appointee's first retention election in the municipality in  
619 which the qualified municipal appointee holds office, the qualified municipal appointee shall  
620 be on the municipal general election ballot for an unopposed retention election every fourth  
621 year.

622 (2) Each qualified municipal appointee who wishes to retain office shall, in the year the  
623 qualified municipal appointee is subject to a retention election:

624 (a) file a declaration of candidacy in accordance with Section 20A-9-203 as if the  
625 qualified municipal appointee were a candidate for municipal office, except that the qualified  
626 municipal appointee is not required to meet the residency requirements of Subsection  
627 20A-9-203(1) unless the qualified municipal appointee is required to meet the residency  
628 requirement by municipal ordinance; and

629 (b) pay the filing fee, if a filing fee is required by municipal ordinance.

630 (3) If a qualified municipal appointee is appointed to more than one qualified  
631 municipal office, the qualified municipal appointee shall file a declaration of candidacy for  
632 each qualified municipal office the qualified municipal appointee holds.

633 (4) The lieutenant governor shall, no later than August 31 of each municipal general  
634 election year, transmit a certified list containing the names of qualified municipal appointees  
635 declaring their candidacy in each city or town to the city recorder or town clerk in which each  
636 qualified municipal appointee is a candidate.

637 (5) Each municipal clerk shall place the names of the qualified municipal appointees  
638 standing for retention election in the nonpartisan section of the ballot.

639 (6) At the municipal general election, for each qualified municipal appointee to be  
640 voted on in the municipality, the ballot shall contain the following question:

641 "Shall \_\_\_\_\_ (name of qualified municipal appointee) be  
642 retained in the office of \_\_\_\_\_ ? (name of qualified municipal office)  
643 Yes No"

644 (7) (a) If the qualified municipal appointee receives more "yes" votes than "no" votes,  
645 or an equal number of "yes" votes and "no" votes, the qualified municipal appointee retains the  
646 qualified municipal office.

647 (b) If the qualified municipal appointee receives more "no" votes than "yes" votes, the

648 qualified municipal appointee is not retained and a vacancy exists in the qualified municipal  
649 office on the first Monday after the municipal general election.

650 (8) A qualified municipal appointee who is not retained is ineligible for appointment to  
651 the qualified municipal office for which the qualified municipal appointee was not retained for  
652 two years after the day on which the qualified municipal appointee vacated the qualified  
653 municipal office under Subsection (7)(b).

654 (9) (a) If a qualified municipal appointee stands for retention for more than one office,  
655 the municipal clerk shall place the qualified municipal appointee's name on the ballot  
656 separately for each office the qualified municipal appointee stands for retention.

657 (b) If the qualified municipal appointee receives more "no" votes than "yes" votes in  
658 one office, and more "yes" votes than "no" votes in the other office, or an equal number of  
659 "yes" votes and "no" votes in the other office, the qualified municipal appointee shall be  
660 retained only in the office for which the qualified municipal appointee receives more "yes"  
661 votes than "no" votes, or an equal number of "yes" votes and "no" votes.

662 Section 11. Section **20A-12a-201** is enacted to read:

663 **Part 2. Campaign and Financial Reporting Requirements for**  
664 **Municipal Retention Elections**

665 **20A-12a-201. Municipal appointees -- Campaign committee.**

666 (1) (a) If a qualified municipal appointee chooses to solicit contributions or make  
667 expenditures to promote the qualified municipal appointee's retention, the qualified municipal  
668 appointee shall establish no more than one retention election personal campaign committee,  
669 consisting of one or more persons, to receive contributions and make expenditures.

670 (b) A qualified municipal appointee's personal campaign committee shall file reports in  
671 connection with the qualified municipal appointee's retention election campaign.

672 (c) A qualified municipal appointee or person coordinating with the qualified  
673 municipal appointee may not receive any contributions or make any expenditures other than  
674 through the personal campaign committee established under this section.

675 (2) (a) The qualified municipal appointee shall file with the lieutenant governor a  
676 signed, written statement containing the name and address of each member of, and the  
677 secretary of, the qualified municipal appointee's personal campaign committee.

678 (b) The qualified municipal appointee may change the membership of the qualified

679 municipal appointee's personal campaign committee at any time by filing with the lieutenant  
680 governor a signed statement containing the name and address of any additional members of the  
681 personal campaign committee and identifying any members that have been removed from the  
682 personal campaign committee.

683 (c) The qualified municipal appointee or the qualified municipal appointee's personal  
684 campaign committee may not make any expenditures on behalf of the qualified municipal  
685 appointee until the statement has been filed.

686 (3) (a) The qualified municipal appointee's personal campaign committee may not  
687 make an expenditure of more than \$1,000 unless the qualified municipal appointee or the  
688 secretary of the qualified municipal appointee's personal campaign committee authorizes the  
689 expenditure in writing.

690 (b) A qualified municipal appointee or the qualified municipal appointee's personal  
691 campaign committee may not make any expenditures prohibited by law.

692 (4) A qualified municipal appointee's personal campaign committee is dissolved on the  
693 date that the summary report required by Section [20A-12a-203](#) is filed.

694 Section 12. Section **20A-12a-202** is enacted to read:

695 **20A-12a-202. Municipal appointees -- Separate account for campaign funds --**  
696 **Reporting contributions.**

697 (1) A qualified municipal appointee or the qualified municipal appointee's personal  
698 campaign committee shall deposit each contribution in one or more separate personal campaign  
699 accounts in a financial institution.

700 (2) The qualified municipal appointee or the qualified municipal appointee's personal  
701 campaign committee may not deposit or mingle any contributions received into a personal or  
702 business account.

703 (3) (a) As used in this Subsection (3), "received" means:

704 (i) for a cash contribution, that the cash is given to a qualified municipal appointee or  
705 the qualified municipal appointee's personal campaign committee;

706 (ii) for a contribution that is a negotiable instrument or check, that the negotiable  
707 instrument or check is negotiated; and

708 (iii) for any other type of contribution, that any portion of the contribution's benefit  
709 inures to the qualified municipal appointee.

710 (b) The qualified municipal appointee or the qualified municipal appointee's personal  
711 campaign committee shall report to the lieutenant governor each contribution within 30 days  
712 after the day on which the contribution is received by the qualified municipal appointee.

713 Section 13. Section **20A-12a-203** is enacted to read:

714 **20A-12a-203. Municipal retention election candidates -- Financial reporting**  
715 **requirements -- Year-end summary report.**

716 (1) The qualified municipal appointee's personal campaign committee shall file a  
717 summary report with the lieutenant governor by January 10 of the year after a municipal  
718 general election year.

719 (2) (a) Each summary report shall include the following information as of December 31  
720 of the last municipal general election year:

721 (i) a single figure equal to the total amount of contributions reported on the interim  
722 report described in Section [20A-12a-204](#);

723 (ii) a single figure equal to the total amount of expenditures reported on the interim  
724 report;

725 (iii) a detailed listing of each contribution received since the last summary report that  
726 has not been reported in detail on the interim report;

727 (iv) for each nonmonetary contribution, the fair market value of the contribution;

728 (v) a detailed listing of each expenditure made since the last summary report that has  
729 not been reported in detail on the interim report;

730 (vi) for each nonmonetary expenditure, the fair market value of the expenditure; and

731 (vii) the net balance for the year, consisting of all contributions minus all expenditures.

732 (b) (i) For all single contributions of \$50 or less, a qualified municipal appointee's  
733 personal campaign committee may report an aggregate figure without a separate detailed  
734 listing.

735 (ii) A qualified municipal appointee's personal campaign committee may not report  
736 two or more contributions from the same source that have a total aggregate value of more than  
737 \$50 in the aggregate figure, but shall report the contributions in the detailed listing.

738 (3) The qualified municipal appointee shall certify in the summary report that, to the  
739 best of the qualified municipal appointee's knowledge, all contributions and all expenditures  
740 have been reported as of December 31 of the last regular general election year and that the



741 qualified municipal appointee's personal campaign committee has no financial obligations  
742 outstanding except as set forth in the report.

743 Section 14. Section **20A-12a-204** is enacted to read:

744 **20A-12a-204. Municipal retention election candidates -- Financial reporting**  
745 **requirements -- Interim report.**

746 (1) As used in this section, "received" is as defined in Section [20A-12a-202](#).

747 (2) The qualified municipal appointee's personal campaign committee shall file an  
748 interim report with the lieutenant governor before the close of regular office hours on the date  
749 seven days before the day of the municipal general election.

750 (3) Each interim report shall include the following information:

751 (a) a detailed listing of each contribution received since the last financial statement;

752 (b) for each nonmonetary contribution received, the fair market value of the

753 contribution;

754 (c) a detailed listing of each expenditure made since the last summary report;

755 (d) for each nonmonetary expenditure, the fair market value of the expenditure; and

756 (e) a net balance for the year consisting of all contributions since the last summary

757 report minus all expenditures since the last summary report.

758 (4) (a) For all individual contributions of \$50 or less, a qualified municipal appointee's  
759 personal campaign committee may report a single aggregate figure without separate detailed  
760 listings.

761 (b) A qualified municipal appointee's personal campaign committee may not report two  
762 or more contributions from the same source that have an aggregate total value of more than \$50  
763 in the aggregate figure, but shall report the contributions in the detailed listing.

764 (5) In preparing each interim report, the qualified municipal appointee's personal  
765 campaign committee shall report all contributions and all expenditures as of five days before  
766 the required filing date of the report.

767 Section 15. Section **20A-12a-205** is enacted to read:

768 **20A-12a-205. Municipal appointees -- Failure to file reports -- Penalties.**

769 (1) (a) Except as provided in Subsection (1)(b), if a qualified municipal appointee who  
770 has formed a retention election personal campaign committee under Section [20A-12a-201](#) fails  
771 to timely file a financial statement required by this part:

772 (i) the lieutenant governor shall, after making a reasonable attempt to discover if the  
773 personal campaign committee filed a timely report, impose a fine against the filing entity in  
774 accordance with Section 20A-11-1005; and

775 (ii) the qualified municipal appointee is disqualified and is not retained.

776 (b) Notwithstanding Subsection (1)(a), a qualified municipal appointee is not  
777 disqualified and the lieutenant governor may not impose a fine if:

778 (i) the qualified municipal appointee timely files the reports required by this section in  
779 accordance with Section 20A-11-103;

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

783 (iii) the omissions, errors, or inaccuracies described in Subsection (2)(b) are corrected  
784 in an amended report or in the next scheduled report.

785 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant  
786 governor shall review each filed summary report to ensure that:

787 (i) each qualified municipal appointee that is required to file a summary report filed a  
788 summary report; and

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

790 (b) If it appears that any qualified municipal appointee has failed to file the summary  
791 report required by law, if it appears that a filed summary report does not conform to the law, or  
792 if the lieutenant governor has received a written complaint alleging a violation of the law or the  
793 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a  
794 violation or receipt of a written complaint, after verifying that an allegation in the complaint is  
795 true, notify the qualified municipal appointee of the violation or written complaint and direct  
796 the qualified municipal appointee to file a summary report correcting the problem.

797 (c) (i) It is unlawful for a qualified municipal appointee to fail to file or amend a  
798 summary report within 14 days after the day on which the qualified municipal appointee  
799 receives the notice described in Subsection (2)(b).

800 (ii) Each qualified municipal appointee who violates Subsection (2)(c)(i) is guilty of a  
801 class B misdemeanor.

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

803 attorney general.

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**Legislative Review Note**  
as of 2-24-14 3:52 PM

**Office of Legislative Research and General Counsel**