

**FINANCIAL DISCLOSURES BY LOCAL CANDIDATES**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kenneth W. Sumsion**

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

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**LONG TITLE**

**General Description:**

This bill amends Title 20A, Election Code, relating to financial disclosure by local candidates.

**Highlighted Provisions:**

This bill:

- ▶ requires local candidates to file a financial disclosure; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on January 1, 2013.

**Utah Code Sections Affected:**

AMENDS:

**20A-9-201**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2

**20A-11-1603**, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section **20A-9-201** is amended to read:

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



28 **requirements -- Affidavit of impecuniosity.**

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

30 (a) be a United States citizen; and

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

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

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

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

36 (b) (i) A person may file a declaration of candidacy for, or be a candidate for, President  
37 or Vice President of the United States and another office, if the person resigns the person's  
38 candidacy for the other office after the person is officially nominated for President or Vice  
39 President of the United States.

40 (ii) A person may file a declaration of candidacy for, or be a candidate for, more than  
41 one justice court judge office.

42 (3) (a) (i) Except for presidential candidates, before the filing officer may accept any  
43 declaration of candidacy, the filing officer shall:

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

46 (B) require the candidate to state whether or not the candidate meets those  
47 requirements.

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

50 (A) a United States citizen;

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

53 (C) a registered voter in the county in which the person is seeking office; and

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

58 (iii) Before accepting a declaration of candidacy for the office of district attorney, the

59 county clerk shall ensure that, as of the date of the election, the person filing that declaration of  
60 candidacy is:

61 (A) a United States citizen;

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

64 (C) a registered voter in the prosecution district in which the person is seeking office;  
65 and

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

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

72 (A) as of the date of filing:

73 (I) is a United States citizen;

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

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

78 (Bb) has met the waiver requirements in Section 53-6-206; and

79 (IV) is qualified to be certified as a law enforcement officer, as defined in Section  
80 53-13-103; and

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

83 (v) Before accepting a declaration of candidacy for a county office, local district office,  
84 municipal office, or the office of governor, lieutenant governor, state auditor, state treasurer,  
85 attorney general, state legislator, [~~or~~] State Board of Education member, or local school board  
86 member, the filing officer shall ensure:

87 (A) that the person filing the declaration of candidacy also files the financial disclosure  
88 required by Section 20A-11-1603; and

89 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is

90 provided to the lieutenant governor according to the procedures and requirements of Section  
91 20A-11-1603.

92 (b) If the prospective candidate states that the qualification requirements for the office  
93 are not met, the filing officer may not accept the prospective candidate's declaration of  
94 candidacy.

95 (c) If the candidate meets the requirements of Subsection (3)(a) and states that the  
96 requirements of candidacy are met, the filing officer shall:

97 (i) inform the candidate that:

98 (A) the candidate's name will appear on the ballot as it is written on the declaration of  
99 candidacy;

100 (B) the candidate may be required to comply with state or local campaign finance  
101 disclosure laws; and

102 (C) the candidate is required to file a financial statement before the candidate's political  
103 convention under:

104 (I) Section 20A-11-204 for a candidate for constitutional office;

105 (II) Section 20A-11-303 for a candidate for the Legislature; or

106 (III) local campaign finance disclosure laws, if applicable;

107 (ii) except for a presidential candidate, provide the candidate with a copy of the current  
108 campaign financial disclosure laws for the office the candidate is seeking and inform the  
109 candidate that failure to comply will result in disqualification as a candidate and removal of the  
110 candidate's name from the ballot;

111 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide  
112 Electronic Voter Information Website Program and inform the candidate of the submission  
113 deadline under Subsection 20A-7-801(4)(a);

114 (iv) provide the candidate with a copy of the pledge of fair campaign practices  
115 described under Section 20A-9-206 and inform the candidate that:

116 (A) signing the pledge is voluntary; and

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

118 (v) accept the candidate's declaration of candidacy; and

119 (vi) if the candidate has filed for a partisan office, provide a certified copy of the  
120 declaration of candidacy to the chair of the county or state political party of which the

121 candidate is a member.

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

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

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

128 (4) Except for presidential candidates, the form of the declaration of candidacy shall be  
129 substantially as follows:

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

131 I, \_\_\_\_\_, declare my intention of becoming a candidate for the office  
132 of \_\_\_\_\_ as a candidate for the \_\_\_\_\_ party. I do solemnly swear that: I will meet the  
133 qualifications to hold the office, both legally and constitutionally, if selected; I reside at  
134 \_\_\_\_\_ in the City or Town of \_\_\_\_\_, Utah, Zip Code \_\_\_\_\_ Phone No. \_\_\_\_\_; I  
135 will not knowingly violate any law governing campaigns and elections; I will file all  
136 campaign financial disclosure reports as required by law; and I understand that failure  
137 to do so will result in my disqualification as a candidate for this office and removal of  
138 my name from the ballot. The mailing address that I designate for receiving official  
139 election notices is \_\_\_\_\_.

140 \_\_\_\_\_

141 Subscribed and sworn before me this \_\_\_\_\_(month\day\year).

142 \_\_\_\_\_ Notary Public (or other officer qualified to administer oath.)"

143 (5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy  
144 is:

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

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

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

150 (i) who is disqualified; or

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

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

154 (ii) The lieutenant governor shall:

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

157 (B) ensure that each county receives that proportion of the total amount paid to the  
158 lieutenant governor from the congressional district that the total vote of that county for all  
159 candidates for representative in Congress bears to the total vote of all counties within the  
160 congressional district for all candidates for representative in Congress.

161 (d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy  
162 without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by  
163 an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer,  
164 a financial statement filed at the time the affidavit is submitted.

165 (ii) A person who is able to pay the filing fee may not claim impecuniosity.

166 (iii) (A) False statements made on an affidavit of impecuniosity or a financial  
167 statement filed under this section shall be subject to the criminal penalties provided under  
168 Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

169 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be  
170 considered an offense under this title for the purposes of assessing the penalties provided in  
171 Subsection 20A-1-609(2).

172 (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in  
173 substantially the following form:

174 "Affidavit of Impecuniosity

175 Individual Name

176 \_\_\_\_\_ Address \_\_\_\_\_

177 Phone Number \_\_\_\_\_

178 I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law  
179 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by  
180 law.

181 Date \_\_\_\_\_ Signature \_\_\_\_\_

182 Affiant

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

184 \_\_\_\_\_  
185 (signature)

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

187 (v) The filing officer shall provide to a person who requests an affidavit of  
188 impecuniosity a statement printed in substantially the following form, which may be included  
189 on the affidavit of impecuniosity:

190 "Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a  
191 candidate who is found guilty of filing a false statement, in addition to being subject to criminal  
192 penalties, will be removed from the ballot."

193 (vi) The filing officer may request that a person who makes a claim of impecuniosity  
194 under this Subsection (5)(d) file a financial statement on a form prepared by the election  
195 official.

196 (6) If there is no legislative appropriation for the Western States Presidential Primary  
197 election, as provided in Part 8, Western States Presidential Primary, a candidate for President  
198 of the United States who is affiliated with a registered political party and chooses to participate  
199 in the regular primary election shall:

200 (a) file a declaration of candidacy, in person or via a designated agent, with the  
201 lieutenant governor:

- 202 (i) on a form developed and provided by the lieutenant governor; and
- 203 (ii) on or after the second Friday in March and before 5 p.m. on the third Thursday in  
204 March before the next regular primary election;

205 (b) identify the registered political party whose nomination the candidate is seeking;

206 (c) provide a letter from the registered political party certifying that the candidate may  
207 participate as a candidate for that party in that party's presidential primary election; and

208 (d) pay the filing fee of \$500.

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

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

213 Section 2. Section **20A-11-1603** is amended to read:

214           **20A-11-1603. Financial disclosure form -- Required when filing for candidacy --**  
215 **Public availability.**

216           (1) Candidates seeking the following offices shall file a financial disclosure with the  
217 filing officer at the time of filing a declaration of candidacy:

- 218           (a) state constitutional officer;
- 219           (b) state legislator; [or]
- 220           (c) State Board of Education member[-]; or
- 221           (d) an office required by law to be filled by election in a:
  - 222           (i) county;
  - 223           (ii) municipality;
  - 224           (iii) school district; or
  - 225           (iv) local district.

226           (2) A filing officer may not accept a declaration of candidacy for an office listed in  
227 Subsection (1) unless the declaration of candidacy is accompanied by the financial disclosure  
228 required by this section.

229           (3) The financial disclosure form shall contain the same [~~requirements and shall be in~~  
230 ~~the same format as the financial disclosure form~~] information described in [~~Section~~] Subsection  
231 76-8-109(4)(b).

- 232           (4) The financial disclosure form shall:
- 233           (a) be made available for public inspection at the filing officer's place of business;
  - 234           (b) if the filing officer is an individual other than the lieutenant governor, be provided  
235 to the lieutenant governor within five business days of the date of filing and be made publicly  
236 available at the Office of the Lieutenant Governor; and
  - 237           (c) be made publicly available on the Statewide Electronic Voter Information Website  
238 administered by the lieutenant governor.

239           Section 3. **Effective date.**

240           This bill takes effect on January 1, 2013.



**Legislative Review Note**  
as of 2-15-12 7:55 AM

**Office of Legislative Research and General Counsel**