

Council Meeting of November 13, 2013

Agenda Item No. 9.d.

REQUEST FOR COUNCIL ACTION

SUBJECT: Discussion and possible action regarding Campaign Financial Disclosure Code requirements prior to 2009 [Councilmember McConnehey]

Current State Code

Utah Code

Title 10 Utah Municipal Code

Chapter 3 Municipal Government

Section 208 Campaign finance statement in municipal election.

10-3-208. Campaign finance statement in municipal election.

(1) As used in this section:

(a) "Reporting date" means:

- (i) ten days before a municipal general election, for a campaign finance statement required to be filed no later than seven days before a municipal general election; and
- (ii) the day of filing, for a campaign finance statement required to be filed no later than 30 days after a municipal primary or general election.

(b) "Reporting limit" means:

(i) \$50; or

(ii) an amount lower than \$50 that is specified in an ordinance of the municipality.

(2) (a) (i) Each candidate for municipal office who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:

(A) no later than seven days before the date of the municipal general election; and

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

(ii) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement no later than 30 days after the date of the municipal primary election.

(b) Each campaign finance statement under Subsection (2)(a) shall:

(i) except as provided in Subsection (2)(b)(ii):

(A) report all of the candidate's itemized and total:

(I) campaign contributions, including in-kind and other nonmonetary contributions, received before the close of the reporting date; and

(II) campaign expenditures made through the close of the reporting date; and

(B) identify:

(I) for each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor;

(II) the aggregate total of all contributions that individually do not exceed the reporting limit; and

(III) for each campaign expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(ii) report the total amount of all campaign contributions and expenditures if the candidate receives \$500 or less in campaign contributions and spends \$500 or less on the candidate's campaign.

(3) (a) A municipality may, by ordinance:

(i) provide a reporting limit lower than \$50;

(ii) require greater disclosure of campaign contributions and expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate for municipal office is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (3)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (4).

(4) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of campaign contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory

provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

(5) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

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

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection **20A-11-103**(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section **20A-11-103** no later than two business days after the statement is filed.

(6) (a) If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in Subsection (2)(a)(i)(A), the municipal clerk or recorder shall inform the appropriate election official who:

(i) shall:

(A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

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

(ii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (6)(a), a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:

(i) the statement details accurately and completely the information required under Subsection (2)(b), except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(7) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that is it due.

(8) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection (8)(a), the court may award costs and attorney's fees to the prevailing party.

**DISCLOSURE OF CAMPAIGN
CONTRIBUTIONS**

2009

Section 1-7A-7 of the West Jordan Municipal Code--adopted by the City Council in 2009 as part of the Municipal Administrative Code, and amended as appropriate--provides:

1-7A-7: DISCLOSURE OF CAMPAIGN CONTRIBUTIONS:

- A. Disclosure Duty: Each candidate for elected municipal office shall report financial contributions in full compliance with state law, including those in Utah Code Annotated section 10-3-208 and title 20A, chapter 11, or successor provisions.
- B. Report Filing: The filings required by this section shall be made with the city clerk/recorder. The statements so filed shall be public records and available for inspection and copy during normal city business hours and pursuant to the provisions of law. (2001 Code § 2-4-207; amd. 2009 Code)

The City's requirements for the Disclosure of campaign contributions are as outlined in the Utah Code Annotated 10-3-208, "Campaign financial statement in municipal elections."

UTAH STATE CODE 10-3-208:

10-3-208. Campaign finance statement in municipal election.

(1) As used in this section:

(a) "Reporting date" means:

- (i) **ten days before a municipal general election**, for a campaign finance statement required to be filed **no later than seven days before a municipal general election**; and
- (ii) the day of filing, for a campaign finance statement required to be filed no later than **30 days after a municipal primary or general election**.

(b) "Reporting limit" means:

- (i) \$50; or
- (ii) an amount lower than \$50 that is specified in an ordinance of the municipality.

(2) (a) (i) Each candidate for municipal office who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:

- (A) no later than seven days before the date of the municipal general election; and
- (B) no later than 30 days after the date of the municipal general election.

(ii) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement no later than 30 days after the date of the municipal primary election.

(b) Each campaign finance statement under Subsection (2)(a) shall:

(i) except as provided in Subsection (2)(b)(ii):

(A) report all of the candidate's itemized and total:

(I) campaign contributions, including in-kind and other nonmonetary contributions, received before the close of the reporting date; and

(II) campaign expenditures made through the close of the reporting date; and

(B) identify:

(I) for each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor;

(II) the aggregate total of all contributions that individually do not exceed the reporting limit; and

(III) for each campaign expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(ii) report the total amount of all campaign contributions and expenditures if the candidate receives \$500 or less in campaign contributions and spends \$500 or less on the candidate's campaign.

(3) (a) A municipality may, by ordinance:

- (i) provide a reporting limit lower than \$50;
- (ii) require greater disclosure of campaign contributions and expenditures than is required in this section; and
- (iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate for municipal office is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (3)(a) if:

- (i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and
- (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (4).

(4) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:

- (a) the provisions of statute or municipal ordinance governing the disclosure of campaign contributions and expenditures;
- (b) the dates when the candidate's campaign finance statement is required to be filed; and
- (c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

(5) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

- (a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and
- (b) make the campaign finance statement filed by a candidate available for public inspection by:
 - (i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and
 - (B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or
- (ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

(6) (a) If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in Subsection (2)(a)(i)(A), the municipal clerk or recorder shall inform the appropriate election official who:

- (i) shall:
 - (A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
 - (B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
- (ii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (6)(a), a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:

- (i) the statement details accurately and completely the information required under Subsection (2)(b), except for inadvertent omissions or insignificant errors or inaccuracies; and
- (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(7) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that is it due.

(8) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection (8)(a), the court may award costs and attorney's fees to the prevailing party.

Amended by Chapter 49, 2008 General Session
Amended by Chapter 382, 2008 General Session

The foregoing requirements are applicable to all candidates, whether successful or not in obtaining elected office.

A copy of the "Campaign Disclosure Statement" is provided for you to make copies to complete this requirement.

**DISCLOSURE OF CAMPAIGN
CONTRIBUTIONS**

2007

Section 2-4-207 of the West Jordan Municipal Code--adopted by the City Council in 2001 as part of the Municipal Administrative Code, and amended as appropriate--provides:

Sec. 2-4-207. Disclosure of campaign contributions.

(a) Each candidate for elected municipal office shall report his itemized and total campaign contributions and expenditures at least once between seven and 14 days before the election and at least once within 30 days after the election.

(b) The financial reports shall identify:

(1) For each contribution of more than \$50.00, the name of the donor of the contribution and the amount of the contribution.

(2) For each expenditure, the name of the recipient and the amount of the expenditure.

(c) The statement filed after the election shall include:

(1) A list of each contribution of more than \$50.00 received after the cutoff date for the statement filed before the election and the name of the donor;

(2) An aggregate total of all contributions of \$50.00 or less received by the candidate after the cutoff date for the statement filed before the election and the name of the donor; and

(3) A list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed before the election and the recipient of each expenditure.

(d) Candidates for elected municipal office who are eliminated at a primary election shall file a signed campaign financial statement containing the information required in subsections (b) and (c) of this section not later than 30 days after the primary election.

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

(f) The filings required by this section shall be made with the city recorder. The statements so filed shall be public records, of which any person shall, during normal business hours and upon reasonable conditions, be entitled to inspect or make copies.

(Code 1987, ' 2-2-106; Ord. No. 99-24, ' 1, 5-18-1999)

The City's requirements for the Disclosure of campaign contributions are as outlined in the Utah Code Annotated 10-3-208, "Campaign financial statement in municipal elections."

The foregoing requirements are applicable to all candidates, whether successful or not in obtaining elected office.

A copy of the "Campaign Disclosure Statement" is provided for you to make copies to complete this requirement.