

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1128
Committee Substitute Favorable 5/5/05
Third Edition Engrossed 5/19/05

Short Title: Campaign Finance Amendments.

(Public)

Sponsors:

Referred to:

April 6, 2005

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE TRAINING FOR CAMPAIGN TREASURERS; TO
2 REQUIRE AN AUDIT TRAIL FOR ANY CAMPAIGN CONTRIBUTION MADE
3 BY MONEY ORDER; TO ALLOW CAMPAIGN EXPENDITURES TO BE
4 MADE BY ANY VERIFIABLE FORM OF PAYMENT; TO SET A
5 THREE-YEAR TIME LIMIT BEFORE ANY UNPAID DEBT IN A CAMPAIGN
6 IS DEEMED TO BE A CONTRIBUTION; TO INCLUDE VACANCY
7 ELECTIONS AND NONPARTISAN RUNOFFS IN THE DEFINITION OF
8 "ELECTION" FOR PURPOSES OF CONTRIBUTION LIMITS; TO CLARIFY
9 THE MEANING OF "QUALIFIED TO RECEIVE VOTES ON THE BALLOT AS
10 A CANDIDATE FOR THE OFFICE" AS A PRECONDITION FOR
11 CERTIFICATION UNDER THE PUBLIC CAMPAIGN FINANCING FUND; TO
12 CLARIFY WHAT CANDIDATES UNDER THAT FUND MAY RAISE AND
13 SPEND AFTER FILING NOTICE OF INTENT TO PARTICIPATE; TO
14 PROVIDE FOR EARLIER DISTRIBUTION OF THE JUDICIAL VOTER GUIDE;
15 TO LIMIT THE USE OF CREDIT CARDS FOR PAYMENT OF
16 EXPENDITURES IN PUBLICLY FUNDED JUDICIAL CAMPAIGNS; TO
17 APPLY THE SCOPE AND ADVISORY OPINION SECTIONS OF ARTICLE 22A
18 OF CHAPTER 163 OF THE GENERAL STATUTES TO ARTICLES 22B, 22D,
19 22E, AND 22F AS WELL; AND TO EXPRESSLY REQUIRE THAT
20 ORGANIZATIONS EXPENDING FOR "ELECTIONEERING
21 COMMUNICATIONS" MUST DO SO OUT OF A SEGREGATED ACCOUNT
22 THAT CONTAINS NO MONEY FROM PROHIBITED SOURCES AND TO
23 EXPRESSLY PROVIDE FOR DETAILED REPORTING FROM ANY SUCH
24 ACCOUNT.
25

26 The General Assembly of North Carolina enacts:

27 **SECTION 1.** G.S. 163-278.7 is amended by adding a new subsection to
28 read:

1 "(f) Every treasurer of a political committee shall receive, prior to the election in
2 which the political committee is involved, training from the State Board of Elections as
3 to the duties of the office. The State Board of Elections shall provide the training both in
4 person and through electronic means, and the treasurer may choose either method to
5 receive the training. This subsection does not apply to a treasurer who is a candidate or
6 to a treasurer who has previously received training conducted by the State Board of
7 Elections. The treasurer of a political committee may designate an employee or
8 volunteer of the committee to receive the training."

9 **SECTION 2.** G.S. 163-278.14(b) reads as rewritten:

10 "(b) No entity shall give, and no candidate, committee or treasurer shall accept,
11 any monetary contribution in excess of one hundred dollars (\$100.00) unless such
12 contribution be in the form of a check, draft, money order, credit card charge, debit, or
13 other noncash method that can be subject to written verification. The State Board of
14 Elections may prescribe guidelines as to the reporting and verification of any method of
15 contribution payment allowed under this Article. For contributions by money order, the
16 State Board shall prescribe methods to ensure an audit trail for every contribution so
17 that the identity of the contributor can be determined. For a contribution made by credit
18 card, the credit card account number of a contributor is not a public record."

19 **SECTION 3.** G.S. 163-278.8(e) reads as rewritten:

20 "(e) All expenditures for media expenses shall be made by ~~check only~~ a verifiable
21 form of payment. The State Board of Elections shall prescribe methods to ensure an
22 audit trail for every expenditure so that the identity of each payee can be determined.
23 All media expenditures in any amount shall be accounted for and reported individually
24 and separately."

25 **SECTION 4.** G.S. 163-278.8(f) reads as rewritten:

26 "(f) All expenditures for nonmedia expenses (except postage) of more than fifty
27 dollars (\$50.00) shall be made by ~~check only~~ a verifiable form of payment. The State
28 Board of Elections shall prescribe methods to ensure an audit trail for every expenditure
29 so that the identity of each payee can be determined. All expenditures for nonmedia
30 expenses of fifty dollars (\$50.00) or less may be made by check or by cash payment. All
31 nonmedia expenditures of more than fifty dollars (\$50.00) shall be accounted for and
32 reported individually and separately, but expenditures of fifty dollars (\$50.00) or less
33 may be accounted for and reported in an aggregated amount, but in that case the
34 treasurer shall account for and report that he made expenditures of fifty dollars (\$50.00)
35 or less each, the amounts, dates, and the purposes for which made. In the case of a
36 nonmedia expenditure required to be accounted for individually and separately by this
37 subsection, if the expenditure was to an individual, the report shall list the name and
38 address of the individual."

39 **SECTION 5.** G.S. 163-278.6(6) reads as rewritten:

40 "(6) The terms "contribute" or "contribution" mean any advance,
41 conveyance, deposit, distribution, transfer of funds, loan, payment,
42 gift, pledge or subscription of money or anything of value whatsoever,
43 to a candidate to support or oppose the nomination or election of one
44 or more clearly identified candidates, to a political committee, to a

1 political party, or to a referendum committee, whether or not made in
2 an election year, and any contract, agreement, promise or other
3 obligation, whether or not legally enforceable, to make a contribution.
4 These terms include, without limitation, such contributions as labor or
5 personal services, postage, publication of campaign literature or
6 materials, in-kind transfers, loans or use of any supplies, office
7 machinery, vehicles, aircraft, office space, or similar or related
8 services, goods, or personal or real property. These terms shall also
9 include a debt, or any portion thereof, to pay an expenditure that has
10 been uncollected beyond the three years set in G.S. 1-52 for its
11 collection, although no civil or criminal liability will attach without
12 evidence that the debtor intended to accept a contribution or the
13 creditor intended to make a contribution, and that the contribution was
14 unlawful. These terms also include, without limitation, the proceeds of
15 sale of services, campaign literature and materials, wearing apparel,
16 tickets or admission prices to campaign events such as rallies or
17 dinners, and the proceeds of sale of any campaign-related services or
18 goods. Notwithstanding the foregoing meanings of "contribution," the
19 word shall not be construed to include services provided without
20 compensation by individuals volunteering a portion or all of their time
21 on behalf of a candidate, political committee, or referendum
22 committee. The term "contribution" does not include an "independent
23 expenditure." If:

- 24 a. Any individual, person, committee, association, or any other
25 organization or group of individuals, including but not limited
26 to, a political organization (as defined in section 527(e)(1) of
27 the Internal Revenue Code of 1986) makes, or contracts to
28 make, any disbursement for any electioneering communication,
29 as defined in G.S. 163-278.80(2) and (3) and
30 G.S. 163-278.90(2) and (3); and
31 b. That disbursement is coordinated with a candidate, an
32 authorized political committee of that candidate, a State or local
33 political party or committee of that party, or an agent or official
34 of any such candidate, party, or committee that disbursement or
35 contracting shall be treated as a contribution to the candidate
36 supported by the electioneering communication or that
37 candidate's party and as an expenditure by that candidate or that
38 candidate's party."

39 **SECTION 6.** G.S. 163-278.13(d) reads as rewritten:

40 "(d) For the purposes of this section, the term "an election" means any primary,
41 runoff, second primary, or general election ~~general election~~, or vacancy election in
42 which the candidate or political committee may be involved, without regard to whether
43 the candidate is opposed or unopposed in the election, except that where a candidate is

1 not on the ballot in a runoff or second primary, that runoff or second primary is not "an
2 election" with respect to that candidate."

3 **SECTION 7.** G.S. 163-278.64(c) reads as rewritten:

4 "(c) Certification of Candidates. – Upon receipt of a submittal of the record of
5 demonstrated support by a participating candidate, the Board shall determine whether or
6 not the candidate has complied with all the following requirements, if they apply to that
7 candidate: requirements:

8 (1) Signed and filed a declaration of intent to participate in this Article.

9 (2) Submitted a report itemizing the appropriate number of qualifying
10 contributions received from registered voters, which the Board shall
11 verify through a random sample or other means it adopts. The report
12 shall include the county of residence of each registered voter listed.

13 (3) ~~Qualified to receive votes on the ballot as a candidate for the~~
14 ~~office.~~ Filed a valid notice of candidacy pursuant to Article 25 of this
15 Chapter.

16 (4) Otherwise met the requirements for participation in this Article.

17 The Board shall certify candidates complying with the requirements of this section
18 as soon as possible and no later than five business days after receipt of a satisfactory
19 record of demonstrated support."

20 **SECTION 8.** G.S. 163-278.64(d) reads as rewritten:

21 "(d) Restrictions on Contributions and Expenditures for Participating and Certified
22 Candidates. – The following restrictions shall apply to contributions and expenditures
23 with respect to participating and certified candidates:

24 (1) Beginning January 1 of the year before the election and before the
25 filing of a declaration of intent, a candidate for office may accept in
26 contributions up to ten thousand dollars (\$10,000) from sources and in
27 amounts permitted by Article 22A of this Chapter and may expend up
28 to ten thousand dollars (\$10,000) for any campaign purpose. A
29 candidate who exceeds either of these limits shall be ineligible to file a
30 declaration of intent or receive funds from the Public Campaign
31 Financing Fund.

32 (2) From the filing of a declaration of intent through the end of the
33 qualifying period, a candidate ~~shall~~ may accept only qualifying
34 contributions, contributions under ten dollars (\$10.00) from North
35 Carolina voters, and personal and family contributions permitted under
36 subdivision (4) of this subsection. The total contributions the candidate
37 may accept during this period shall not exceed the maximum
38 qualifying contributions for that candidate. In addition to these
39 contributions, the candidate may only expend during this period ~~no~~
40 more than an amount equal to the maximum qualifying contributions
41 for that candidate, not including possible rescue funds or the remaining
42 money raised pursuant to subdivision (1) of this subsection. subsection
43 and possible rescue funds received pursuant to G.S. 163-278.67.
44 ~~Contributions a candidate may use to expend to that limit shall be~~

1 ~~limited to qualifying contributions, and personal and family~~
2 ~~contributions permitted by subdivision (4) of this subsection.~~

3 (3) After the qualifying period and through the date of the general
4 election, the candidate shall expend only the funds the candidate
5 receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any
6 funds remaining from the qualifying period and possible rescue funds.

7 (4) During the qualifying period, the candidate may contribute up to one
8 thousand dollars (\$1,000) of that candidate's own money to the
9 ~~campaign and campaign.~~ Debt incurred by the candidate for a
10 campaign expenditure shall count toward that limit. The candidate may
11 accept in contributions one thousand dollars (\$1,000) from each
12 member of that candidate's family consisting of spouse, parent, child,
13 brother, and sister.

14 (5) A candidate and the candidate's committee shall limit the use of all
15 revenues permitted by this subsection to expenditures for
16 campaign-related purposes only. The Board shall publish guidelines
17 outlining permissible campaign-related expenditures. In establishing
18 those guidelines, the Board shall differentiate expenditures that
19 reasonably further a candidate's campaign from expenditures for
20 personal use that would be incurred in the absence of the candidacy. In
21 establishing the guidelines, the Board shall review relevant provisions
22 of G.S. 163-278.42(e), the Federal Election Campaign Act, and rules
23 adopted pursuant to it, and similar provisions in other states.

24 (6) Any contribution received by a participating or certified candidate that
25 falls outside that permitted by this subsection shall be returned to the
26 donor as soon as practicable. Contributions intentionally made,
27 solicited, or accepted in violation of this Article are subject to civil
28 penalties as specified in G.S. 163-278.70. The funds involved shall be
29 forfeited to the Civil Penalty and Forfeiture Fund.

30 (7) A candidate shall return to the Fund any amount distributed for an
31 election that is unspent and uncommitted at the date of the election, or
32 at the time the individual ceases to be a certified candidate, whichever
33 occurs first. For accounting purposes, all qualifying, personal, and
34 family contributions shall be considered spent before revenue from the
35 Fund is spent or committed."

36 **SECTION 9.** G.S. 163-278.69(a) reads as rewritten:

37 "(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that
38 explains the functions of the appellate courts and the laws concerning the election of
39 appellate judges, the purpose and function of the Public Campaign ~~Financing~~ Fund, and
40 the laws concerning voter registration. The Board shall distribute the Guide to as many
41 voting-age individuals in the State as practical, through a mailing to all residences or
42 other means it deems effective. The distribution shall occur no more than ~~28~~14 days nor
43 fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for

1 the primary and no more than ~~28~~14 days nor fewer than seven days before the one-stop
2 voting period provided in G.S. 163-227.2 for the general election."

3 **SECTION 10.** G.S. 163-278.6(9) reads as rewritten:

4 "(9) The terms "expend" or "expenditure" mean any purchase, advance,
5 conveyance, deposit, distribution, transfer of funds, loan, payment,
6 gift, pledge or subscription of money or anything of value whatsoever,
7 whether or not made in an election year, and any contract, agreement,
8 promise or other obligation, whether or not legally enforceable, to
9 make an expenditure or to incur an obligation to pay an expenditure, to
10 support or oppose the nomination, election, or passage of one or more
11 clearly identified candidates, or ballot measure. Supporting or
12 opposing the election of clearly identified candidates includes
13 supporting or opposing the candidates of a clearly identified political
14 party. The term "expenditure" also includes any payment or other
15 transfer made by a candidate, political committee, or referendum
16 committee. The special definition of "expenditure" in
17 G.S. 163-278.12A applies only in that section."

18 **SECTION 11.** G.S. 163-278.5 reads as rewritten:

19 **"§ 163-278.5. Scope of Article; severability.**

20 The provisions of this Article apply to primaries and elections for North Carolina
21 offices and to North Carolina referenda and do not apply to primaries and elections for
22 federal offices or offices in other States or to non-North Carolina referenda. Any
23 provision in this Article that regulates a non-North Carolina entity does so only to the
24 extent that the entity's actions affect elections for North Carolina offices or North
25 Carolina referenda.

26 The provisions of this Article are severable. If any provision is held invalid by a
27 court of competent jurisdiction, the invalidity does not affect other provisions of the
28 Article that can be given effect without the invalid provision.

29 This section applies to Articles 22B, 22D, 22E, and 22F of the General Statutes to
30 the same extent that it applies to this Article."

31 **SECTION 12.** G.S. 163-278.23 reads as rewritten:

32 **"§ 163-278.23. Duties of Executive Director of Board.**

33 The Executive Director of the Board shall inspect or cause to be inspected each
34 statement filed with the Board under this Article within 30 days after the date it is filed.
35 The Executive Director shall advise, or cause to be advised, no more than 30 days and at
36 least five days before each report is due, each candidate or treasurer whose
37 organizational report has been filed, of the specific date each report is due. He shall
38 immediately notify any individual, candidate, treasurer, political committee, referendum
39 committee, media, or other entity that may be required to file a statement under this
40 Article if:

- 41 (1) It appears that the individual, candidate, treasurer, political committee,
42 referendum committee, media, or other entity has failed to file a
43 statement as required by law or that a statement filed does not conform
44 to this Article; or

- 1 (2) A written complaint is filed under oath with the Board by any
2 registered voter of this State alleging that a statement filed with the
3 Board does not conform to this Article or to the truth or that an
4 individual, candidate, treasurer, political committee, referendum
5 committee, media, or other entity has failed to file a statement required
6 by this Article.

7 The entity that is the subject of the complaint will be given an opportunity to
8 respond to the complaint before any action is taken requiring compliance.

9 The Executive Director of the Board of Elections shall issue written opinions to
10 candidates, the communications media, political committees, referendum committees, or
11 other entities upon request, regarding filing procedures and compliance with this
12 Article. Any such opinion so issued shall specifically refer to this paragraph. If the
13 candidate, communications media, political committees, referendum committees, or
14 other entities rely on and comply with the opinion of the Executive Director of the
15 Board of Elections, then prosecution or civil action on account of the procedure
16 followed pursuant thereto and prosecution for failure to comply with the statute
17 inconsistent with the written ruling of the Executive Director of the Board of Elections
18 issued to the candidate or committee involved shall be barred. Nothing in this paragraph
19 shall be construed to prohibit or delay the regular and timely filing of reports. The
20 Executive Director shall file all opinions issued pursuant to this section with the
21 Codifier of Rules to be published unedited in the North Carolina Register and the North
22 Carolina Administrative Code.

23 This section applies to Articles 22B, 22D, 22E, and 22F of the General Statutes to
24 the same extent that it applies to this Article."

25 **SECTION 13.(a)** G.S. 163-278.81 reads as rewritten:

26 **"§ 163-278.81. Disclosure of Electioneering Communications.**

27 (a) Statement Required. – Every individual, committee, association, or any other
28 organization or group of individuals that makes a disbursement for the direct costs of
29 producing and airing electioneering communications in an aggregate amount in excess
30 of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of
31 each disclosure date, file with the Board a statement containing the information
32 described in subsection (b) of this section.

33 (b) Contents of Statement. – Each statement required to be filed by this section
34 shall be made under the penalty of perjury in G.S. 14-209 and shall contain the
35 following information:

- 36 (1) The identification of the entity making the disbursement, of any entity
37 sharing or exercising direction or control over the activities of that
38 entity, and of the custodian of the books and accounts of the entity
39 making the disbursement.
40 (2) The principal place of business of the entity making the disbursement
41 if the entity is not an individual.
42 (3) The amount of each disbursement of more than one thousand dollars
43 (\$1,000) during the period covered by the statement and the
44 identification of the entity to whom the disbursement was made.

(4) The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified.

(5) ~~If the disbursements were paid out of a segregated bank account that consists of funds contributed solely by individuals directly to that account for electioneering communications, the~~ The names and addresses of all contributors who contributed an aggregate amount of more than one thousand dollars (\$1,000) during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. ~~date to a segregated bank account that consists of funds contributed solely by entities other than prohibited sources.~~ Nothing in this subdivision is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

(6) ~~If the disbursements were paid out of funds not described in subdivision (5) of this subsection, the names and addresses of all contributors who contributed an aggregate amount of more than one thousand dollars (\$1,000) to the entity making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date."~~

SECTION 13.(b) G.S. 163-278.82 reads as rewritten:

"§ 163-278.82. Prohibition of corporate and labor disbursements for electioneering communications.

(a) **Prohibition.** – No prohibited source may make any disbursement for the costs of producing or airing any electioneering communication. No individual, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986), which has received any payment from a prohibited source may make any disbursement for the costs of producing and airing any electioneering communication. For the purpose of this section, the term "electioneering communication" does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) if the communication is paid for exclusively by funds provided by individuals and the disbursements for costs of producing and airing the communication are paid out of a segregated bank account that consists of funds contributed solely by ~~individuals~~ entities other than prohibited sources directly to that account.

(b) **Direct or Indirect Disbursement.** – An electioneering communication shall be treated as made by a prohibited source if the prohibited source directly or indirectly disburses any amount for any of the costs of the communication.

(c) **Segregated Fund.** – Any disbursement for an electioneering communication made from an account must be made from a segregated account into which no funds from a prohibited source have been directly or indirectly introduced."

SECTION 13.(c) G.S. 163-278.91 reads as rewritten:

"§ 163-278.91. Disclosure of Electioneering Communications.

1 (a) Statement Required. – Every individual, committee, association, or any other
2 organization or group of individuals who makes a disbursement for the direct costs of
3 producing and transmitting electioneering communications in an aggregate amount in
4 excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours
5 of each disclosure date, file with the Board a statement containing the information
6 described in subsection (b) of this section.

7 (b) Contents of Statement. – Each statement required to be filed by this section
8 shall be made under the penalty of perjury in G.S. 14-209 and shall contain the
9 following information:

10 (1) The identification of the entity making the disbursement, of any entity
11 sharing or exercising direction or control over the activities of that
12 entity, and of the custodian of the books and accounts of the entity
13 making the disbursement.

14 (2) The principal place of business of the entity making the disbursement
15 if the entity is not an individual.

16 (3) The amount of each disbursement of more than one thousand dollars
17 (\$1,000) during the period covered by the statement and the
18 identification of the entity to whom the disbursement was made.

19 (4) The elections to which the electioneering communications pertain and
20 the names, if known, of the candidates identified or to be identified.

21 (5) ~~If the disbursements were paid out of a segregated bank account that~~
22 ~~consists of funds contributed solely by individuals directly to that~~
23 ~~account for electioneering communications, the~~ The names and
24 addresses of all contributors who contributed an aggregate amount of
25 more than one thousand dollars (\$1,000) during the period beginning
26 on the first day of the preceding calendar year and ending on the
27 disclosure date date to a segregated bank account that consists of funds
28 contributed solely by entities other than prohibited sources. Nothing in
29 this subdivision is to be construed as a prohibition on the use of funds
30 in such a segregated account for a purpose other than electioneering
31 communications.

32 (6) ~~If the disbursements were paid out of funds not described in~~
33 ~~subdivision (5) of this subsection, the names and addresses of all~~
34 ~~contributors who contributed an aggregate amount of more than one~~
35 ~~thousand dollars (\$1,000) to the entity making the disbursement during~~
36 ~~the period beginning on the first day of the preceding calendar year~~
37 ~~and ending on the disclosure date."~~

38 **SECTION 13.(d)** G.S. 163-278.92 reads as rewritten:

39 **"§ 163-278.92. Prohibition of corporate and labor disbursements for electioneering**
40 **communications.**

41 (a) Prohibition. – No prohibited source may make any disbursement for the costs
42 of producing or airing any electioneering communication. No individual, committee,
43 association, or any other organization or group of individuals, including but not limited
44 to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code

1 of 1986), which has received any payment from a prohibited source may make any
2 disbursement for the costs of producing and airing any electioneering communication.
3 For the purpose of this section, the term "electioneering communication" does not
4 include a communication by a section 501(c)(4) organization or a political organization
5 (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) if the
6 communication is paid for exclusively by funds provided by individuals and the
7 disbursements for costs of producing and airing the communication are paid out of a
8 segregated bank account that consists of funds contributed solely by ~~individuals~~ entities
9 other than prohibited sources directly to that account.

10 (b) Direct or Indirect Disbursement. – An electioneering communication shall be
11 treated as made by a prohibited source if the prohibited source directly or indirectly
12 disburses any amount for any of the costs of the communication.

13 (c) Segregated Fund. – Any disbursement for an electioneering communication
14 made from an account must be made from a segregated account into which no funds
15 from a prohibited source have been directly or indirectly introduced."

16 **SECTION 14.** This act becomes effective July 1, 2005, and applies to all
17 contributions and expenditures made or accepted on or after that date.