

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 918
Committee Substitute Favorable 5/8/13

Short Title: Electioneering and IE Reporting Changes.

(Public)

Sponsors:

Referred to:

April 15, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ALTER THE REPORTING SCHEDULE FOR INDEPENDENT
3 EXPENDITURES AND ELECTIONEERING COMMUNICATIONS TO PROVIDE
4 INFORMATION IN A TIMELY FASHION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 163-278.12 reads as rewritten:

7 "§ 163-278.12. Special reporting of contributions and independent expenditures.

8 (a) Subject to G.S. 163-278.39 and G.S. 163-278.14, individuals and other entities not
9 otherwise prohibited from doing so may make independent expenditures. In the event an
10 individual, person, or other entity incurs expenses in excess of three hundred dollars (\$300.00)
11 for making independent expenditures but is not otherwise required to report them ~~makes~~
12 ~~independent expenditures in excess of one hundred dollars (\$100.00);~~ them, that individual,
13 person, or entity shall file a statement of such independent expenditure with the appropriate
14 board of elections in the manner prescribed by the State Board of ~~Elections~~ Elections
15 containing all of the following:

- 16 (1) The identification of the individual, person, or other entity incurring the
17 expense, of any other entity sharing or exercising direction or control over
18 the activities of that entity, and of the custodian of the books and accounts of
19 the individual, person, or other entity incurring the expense.
20 (2) The principal place of business of the person or entity incurring the expense,
21 if not an individual.
22 (3) The amount and date of each expense incurred during the period covered by
23 the report and the identification of the individual, person, or other entity to
24 whom the expense was incurred.
25 (4) The elections to which the independent expenditures pertain and the names
26 of the candidates supported or opposed by the independent expenditures, or
27 if a referendum, whether the referendum is supported or opposed.
28 (5) The names and addresses of all entities that donated, to further an
29 independent expenditure or independent expenditures, funds or anything of
30 value whatsoever in an aggregate amount of more than one hundred dollars
31 (\$100.00) during the reporting period and the date and amount of the
32 donation received. If the donor is an individual, the report shall also contain
33 the principal occupation of the donor. The "principal occupation of the
34 donor" shall mean the same as the "principal occupation of the contributor"
35 in G.S. 163-278.11.



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1 ~~(b) Any person or entity other than an individual that is permitted to make contributions~~
2 ~~but is not otherwise required to report them shall report each contribution in excess of one~~
3 ~~hundred dollars (\$100.00) with the appropriate board of elections in the manner prescribed by~~
4 ~~the State Board of Elections.~~

5 ~~(c) In assuring compliance with subsections (a) and (b) of this section, the State Board~~
6 ~~of Elections shall require the identification of each person or entity making a donation of more~~
7 ~~than one hundred dollars (\$100.00) to the entity filing the report if the donation was made to~~
8 ~~further the reported independent expenditure or contribution. If the donor is an individual, the~~
9 ~~statement shall also contain the principal occupation of the donor. The "principal occupation of~~
10 ~~the donor" shall mean the same as the "principal occupation of the contributor" in~~
11 ~~G.S. 163-278.11.~~

12 ~~(d) Contributions or~~The initial report of independent expenditures required to be
13 reported under this section shall be reported at the earliest of the following dates:

14 ~~(1) within 30~~Within 10 days after they of incurring expenses that exceed one
15 three hundred dollars (\$100.00)(300.00) to further independent
16 expenditures.

17 ~~(2) Within 48 hours of incurring expenses that exceed three hundred dollars~~
18 ~~(\$300.00) to further independent expenditures occurring during the or 1030~~
19 ~~days before an election the contributions or independent expenditures affect,~~
20 ~~whichever occurs earlier affect.~~

21 ~~(3) Within 48 hours of incurring expenses or receiving donations that exceed~~
22 ~~one thousand dollars (\$1,000) to further independent expenditures.~~

23 ~~(d1) An additional report shall be filed within 48 hours of the individual, person, or other~~
24 ~~entity incurring expenses or receiving donations to further independent expenditures that~~
25 ~~aggregate to more than five thousand dollars (\$5,000) during a period not covered by a~~
26 ~~previous report. A final report of donations and expenditures required to be reported but not~~
27 ~~included in a previous report shall be filed by 30 days after the election the independent~~
28 ~~expenditures affect.~~

29 ~~(d2) Notwithstanding the requirements of subsections (d) and (d1) of this section, an~~
30 ~~individual, person, or other entity required to report under this section to a county board of~~
31 ~~elections shall file an additional report within 48 hours of incurring expenses to further~~
32 ~~independent expenditures that aggregate to more than one thousand dollars (\$1,000) during a~~
33 ~~period not covered by a previous report in the 30 days before the election.~~

34 ~~(e) The State Board of Elections shall require subsequent reporting of independent~~
35 ~~expenditures according to the same schedule required of political committees under~~
36 ~~G.S. 163-278.9(a). An individual or person that makes an independent expenditure shall~~
37 ~~disclose by report to the State Board of Elections within 48 hours of incurring an expense of~~
38 ~~five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000)~~
39 ~~or more for making an independent expenditure before an election but after the period covered~~
40 ~~by the last report due before that election.~~

41 ~~(f) For the purposes of subsection (e) of this section, a donation to the person or entity~~
42 ~~making the independent expenditure is deemed to have been donated to further the independent~~
43 ~~expenditure if any of subdivisions (1) through (4) of this subsection apply. For purposes of this~~
44 ~~subsection, the "filer" is the person or entity making the independent expenditure and~~
45 ~~responsible for filing the report, or an agent of that person or entity. For purposes of this~~
46 ~~subsection, the "donor" is the person or entity donating to the filer the funds or other thing of~~
47 ~~value, or an agent of that person or entity.~~

48 ~~(1) The donor designates, requests, or suggests that the donation be used for an~~
49 ~~independent expenditure or for multiple independent expenditures, and the~~
50 ~~filer agrees to use the donation for an independent expenditure.~~

- 1 (2) The filer expressly solicited the donor for a donation for making or paying
2 for an independent expenditure.
- 3 (3) The donor and the filer engaged in substantial written or oral discussion
4 regarding the donor's making, donating, or paying for an independent
5 expenditure.
- 6 (4) The donor or the filer knew or had reason to know of the filer's intent to
7 make independent expenditures with the donation.

8 A donation shall not be deemed to be made to further an independent expenditure if the
9 donation was a commercial transaction occurring in the ordinary course of business between
10 the donor and the filer unless there is affirmative evidence that the amounts were donated to
11 further an independent expenditure. In determining the amount of a donation that was made to
12 further any particular independent expenditure, there shall be excluded any amount that was
13 designated by the donor with respect to a different election than the election that is the subject
14 of the independent expenditure covered by the report.

15 ~~Subdivisions (1) through (4) of this subsection shall also apply to reports made under~~
16 ~~subsection (c) of this section concerning contributions. However, nothing in this section shall~~
17 ~~be interpreted to limit the effect of the prohibition on making contributions in the name of~~
18 ~~another in G.S. 163-278.14.~~

19 (g) All reports required by this section shall be filed according to rules adopted by the
20 State Board of Elections. If the ~~expense incurred is greater~~ reportable donations or expenses
21 aggregate to more than five thousand dollars (\$5,000), the report shall be filed electronically.
22 The State Board of Elections shall provide the software necessary to file the electronic report to
23 any individual or person required to file an electronic report at no cost to that individual or
24 person."

25 **SECTION 2.** Article 22A of Chapter 163 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 163-278.12B. Special reporting independent expenditures made by registered political**
28 **committees and reporting of contributions by persons or entities otherwise not**
29 **required to report.**

30 (a) Special Reporting of Independent Expenditures Made by Registered Political
31 Committees. – Any political committee that is required to file disclosure reports pursuant to
32 G.S. 163-278.9 or Part 2 of this Article which incurs expenses to make independent
33 expenditures in excess of one thousand dollars (\$1,000) shall also file informational reports
34 with the appropriate board of elections on the same schedule and in the same manner as set
35 forth in G.S. 163-278.12 when such a report is not required by G.S. 163-278.9 or Part 2 of this
36 Article. However, only contributions given to the political committee to further an independent
37 expenditure must be included in the informational report. Nothing in this section shall be
38 interpreted to limit the effect of the prohibition on making contributions in the name of another
39 in G.S. 163-278.14. The political committee shall file the required informational reports
40 electronically with the appropriate board of elections if the expenses incurred or contributions
41 received to further independent expenditures aggregate to more than five thousand dollars
42 (\$5,000).

43 (b) Reporting of Contributions by Persons or Entities Otherwise Not Required to
44 Report. – Any person or entity other than an individual that is permitted to make contributions
45 but is not otherwise required to report them shall report each contribution in excess of three
46 hundred dollars (\$300.00) with the appropriate board of elections in the manner prescribed by
47 the State Board of Elections. Additionally, the person or entity that is required to report
48 contributions shall also report any donation it receives to further that contribution if the
49 donation was in excess of three hundred dollars (\$300.00). Contributions required to be
50 reported under this subsection shall be reported within 10 days of occurring or within 48 hours
51 if they occur during the 30 days before an election the contributions affect."

1 **SECTION 3.** G.S. 163-278.12C reads as rewritten:

2 "**§ 163-278.12C. Special reporting of electioneering communications.**

3 (a) Every ~~individual or person~~ individual, person, or other entity that incurs an expense
4 expenses or receives donations in excess of five thousand dollars (\$5,000) for the direct costs of
5 producing or airing electioneering communications aggregating in excess of five thousand
6 dollars (\$5,000) shall file ~~the following reports~~ a report with the appropriate board of elections
7 in the manner prescribed by the State Board of ~~Elections~~ Elections containing all of the
8 following:

- 9 (1) The identification of the ~~individual or person~~ individual, person, or entity
10 incurring the expense, of any individual or person individual, person, or
11 entity sharing or exercising direction or control over the activities of that
12 ~~individual or person~~ individual, person, or entity, and of the custodian of the
13 books and accounts of the ~~individual or person~~ individual, person, or entity
14 incurring the expense.
- 15 (2) The principal place of business of the person or entity incurring the expense,
16 if not an individual.
- 17 (3) The amount and date of each expense incurred during the period covered by
18 the ~~statement report~~ and the identification of the individual or person
19 individual, person, or entity to whom the expense was incurred.
- 20 (4) The elections to which the electioneering communications pertain, if any,
21 and the names, if known, of the candidates identified or to be identified.
- 22 (5) The names and addresses of all entities that donated, to further an
23 electioneering communication or electioneering communications, funds or
24 anything of value whatsoever in an aggregate amount of more than one
25 thousand dollars (\$1,000) during the reporting ~~period~~ period and the date and
26 amount of the donation received. If the donor is an individual, the ~~statement~~
27 report shall also contain the principal occupation of the donor. The "principal
28 occupation of the donor" shall mean the same as the "principal occupation of
29 the contributor" in G.S. 163-278.11.

30 (b) The initial report required by this section shall be filed with the ~~State Board~~ no later
31 than the 10th day following the day the individual or person incurs an expense for the direct
32 costs of producing or airing an electioneering communication. appropriate board of elections
33 within 48 hours of expenditure or receipt of the amount in subsection (a) of this section. The
34 State Board shall require subsequent reporting according to the same schedule required of
35 political committees under G.S. 163-278.9(a). An individual or person that produces or airs an
36 electioneering communication shall disclose by report to the State Board within 48 hours of
37 incurring an expense of five thousand dollars (\$5,000) or more or receiving a donation of one
38 thousand dollars (\$1,000) or more for making an electioneering communication before an
39 election but after the period covered by the last report due before that election. An additional
40 report shall be filed within 48 hours of the entity incurring expenses or receiving donations to
41 further electioneering communications that aggregate to more than five thousand dollars
42 (\$5,000) during a period not covered by a previous report. A final report of expenses and
43 donations required to be reported but not included in a previous report shall be filed by 30 days
44 after the election the electioneering communications affect.

45 (c) For the purposes of ~~subdivision (a)(5)~~ of this section, a donation to the person or
46 entity making the electioneering communication is deemed to have been donated to further the
47 electioneering communication if any of subdivisions (1) through (4) of this subsection apply.
48 For purposes of this subsection, the "filer" is the person or entity making the electioneering
49 communication and responsible for filing the report, or an agent of that person or entity. For
50 purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or
51 other thing of value, or an agent of that person or entity.

- 1 (1) The donor designates, requests, or suggests that the donation be used for an
2 electioneering communication or electioneering communications, and the
3 filer agrees to use the donation for that purpose.
- 4 (2) The filer expressly solicited the donor for a donation for making or paying
5 for an electioneering communication.
- 6 (3) The donor and the filer engaged in substantial written or oral discussion
7 regarding the donor's making, donating, or paying for an electioneering
8 communication.
- 9 (4) The donor or the filer knew or had reason to know of the filer's intent to
10 make electioneering communication with the donation.

11 A donation shall not be deemed to be made to further an electioneering communication if
12 the donation was a commercial transaction occurring in the ordinary course of business
13 between the donor and the filer unless there is affirmative evidence that the amounts were
14 donated to further an electioneering communication. In determining the amount of a donation
15 that was made to further any particular electioneering communication, there shall be excluded
16 any amount that was designated by the donor with respect to a different election than the
17 election that is the subject of the electioneering communication covered by the report.

18 (d) All reports required by this section shall be filed ~~according to rules adopted by the~~
19 ~~State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report~~
20 ~~shall be filed electronically.~~ The State Board shall provide the software necessary to file the
21 electronic report to any individual or person required to file an electronic report at no cost to
22 that individual or person."

23 **SECTION 4.** This act becomes effective September 1, 2013, and applies to
24 donations, contributions, and expenditures made on or after that date.