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HOUSE BILL 918
Committee Substitute Favorable 5/8/13
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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 one thousand dollars (\$1,000)
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~~.
15 Elections 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.



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 hundred dollars (\$100.00)one thousand dollars (\$1,000) to further
16 independent expenditures.

17 ~~(2) Within 48 hours of incurring expenses that exceed one thousand dollars~~
18 ~~(\$1,000) to further or 10 days before an election the contributions or~~
19 ~~independent expenditures affect, whichever occurs earlier.~~expenditures.

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

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

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

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

45 (1) The donor designates, requests, or suggests that the donation be used for an
46 independent expenditure or for multiple independent expenditures, and the
47 filer agrees to use the donation for an independent expenditure.

48 (2) The filer expressly solicited the donor for a donation for making or paying
49 for an independent expenditure.

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

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

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

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

23 (h) For any independent expenditures pertaining to a municipal election or municipal
24 candidate, the amount in subsection (a) and subdivision (d)(1) of this section shall be three
25 hundred dollars (\$300.00), and not one thousand dollars (\$1,000)."

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

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

31 (a) Special Reporting of Independent Expenditures Made by Registered Political
32 Committees. – Any political committee that is required to file disclosure reports pursuant to
33 G.S. 163-278.9 or Part 2 of this Article which incurs expenses to make independent
34 expenditures in excess of one thousand dollars (\$1,000) shall also file informational reports
35 with the appropriate board of elections on the same schedule and in the same manner as set
36 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
37 Article. However, only contributions given to the political committee to further an independent
38 expenditure must be included in the informational report. Nothing in this section shall be
39 interpreted to limit the effect of the prohibition on making contributions in the name of another
40 in G.S. 163-278.14. The political committee shall file the required informational reports
41 electronically with the appropriate board of elections if the expenses incurred or contributions
42 received to further independent expenditures aggregate to more than five thousand dollars
43 (\$5,000).

44 (b) Reporting of Contributions by Persons or Entities Otherwise Not Required to
45 Report. – Any person or entity other than an individual that is permitted to make contributions
46 but is not otherwise required to report them shall report each contribution in excess of three
47 hundred dollars (\$300.00) with the appropriate board of elections in the manner prescribed by
48 the State Board of Elections. Additionally, the person or entity that is required to report
49 contributions shall also report any donation it receives to further that contribution if the
50 donation was in excess of three hundred dollars (\$300.00). Contributions required to be

1 reported under this subsection shall be reported within 10 days of occurring or within 48 hours
2 if they occur during the 30 days before an election the contributions affect."

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

4 **"§ 163-278.12C. Special reporting of electioneering communications.**

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

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

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

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

1 purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or
2 other thing of value, or an agent of that person or entity.

3 (1) The donor designates, requests, or suggests that the donation be used for an
4 electioneering communication or electioneering communications, and the
5 filer agrees to use the donation for that purpose.

6 (2) The filer expressly solicited the donor for a donation for making or paying
7 for an electioneering communication.

8 (3) The donor and the filer engaged in substantial written or oral discussion
9 regarding the donor's making, donating, or paying for an electioneering
10 communication.

11 (4) The donor or the filer knew or had reason to know of the filer's intent to
12 make electioneering communication with the donation.

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

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

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