

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
Senate Judiciary I Committee Substitute Adopted 8/12/05

Short Title: Campaign Finance Amendments.

(Public)

Sponsors:

Referred to:

April 6, 2005

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE AN AUDIT TRAIL FOR ANY CAMPAIGN
2 CONTRIBUTION MADE BY MONEY ORDER; TO ALLOW CAMPAIGN
3 EXPENDITURES TO BE MADE BY ANY VERIFIABLE FORM OF PAYMENT;
4 TO CLARIFY THE MEANING OF "QUALIFIED TO RECEIVE VOTES ON THE
5 BALLOT AS A CANDIDATE FOR THE OFFICE" AS A PRECONDITION FOR
6 CERTIFICATION UNDER THE PUBLIC CAMPAIGN FINANCING FUND; TO
7 CLARIFY WHAT CANDIDATES UNDER THAT FUND MAY RAISE AND
8 SPEND AFTER FILING NOTICE OF INTENT TO PARTICIPATE; TO
9 PROVIDE FOR EARLIER DISTRIBUTION OF THE JUDICIAL VOTER GUIDE;
10 TO APPLY THE SCOPE AND ADVISORY OPINION SECTIONS OF ARTICLE
11 22A OF CHAPTER 163 OF THE GENERAL STATUTES TO ARTICLES 22B,
12 22D, 22E, AND 22F AS WELL; TO EXPRESSLY REQUIRE THAT
13 ORGANIZATIONS EXPENDING FOR "ELECTIONEERING
14 COMMUNICATIONS" MUST DO SO OUT OF A SEGREGATED ACCOUNT
15 THAT CONTAINS NO MONEY FROM PROHIBITED SOURCES AND TO
16 EXPRESSLY PROVIDE FOR DETAILED REPORTING FROM ANY SUCH
17 ACCOUNT; AND TO CLARIFY THE DEFINITION OF "CORPORATION".

18
19 The General Assembly of North Carolina enacts:

20 **SECTION 1.** G.S. 163-278.14(b) reads as rewritten:

21 "(b) No entity shall give, and no candidate, committee or treasurer shall accept,
22 any monetary contribution in excess of one hundred dollars (\$100.00) unless such
23 contribution be in the form of a check, draft, money order, credit card charge, debit, or
24 other noncash method that can be subject to written verification. The State Board of
25 Elections may prescribe guidelines as to the reporting and verification of any method of
26 contribution payment allowed under this Article. For contributions by money order, the
27 State Board shall prescribe methods to ensure an audit trail for every contribution so

1 that the identity of the contributor can be determined. For a contribution made by credit
2 card, the credit card account number of a contributor is not a public record."

3 **SECTION 2.** G.S. 163-278.8(e) reads as rewritten:

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

9 **SECTION 3.** G.S. 163-278.8(f) reads as rewritten:

10 "(f) All expenditures for nonmedia expenses (except postage) of more than fifty
11 dollars (\$50.00) shall be made by ~~check only~~ a verifiable form of payment. The State
12 Board of Elections shall prescribe methods to ensure an audit trail for every expenditure
13 so that the identity of each payee can be determined. All expenditures for nonmedia
14 expenses of fifty dollars (\$50.00) or less may be made by check or by cash payment. All
15 nonmedia expenditures of more than fifty dollars (\$50.00) shall be accounted for and
16 reported individually and separately, but expenditures of fifty dollars (\$50.00) or less
17 may be accounted for and reported in an aggregated amount, but in that case the
18 treasurer shall account for and report that he made expenditures of fifty dollars (\$50.00)
19 or less each, the amounts, dates, and the purposes for which made. In the case of a
20 nonmedia expenditure required to be accounted for individually and separately by this
21 subsection, if the expenditure was to an individual, the report shall list the name and
22 address of the individual."

23 **SECTION 4.** G.S. 163-278.64(c) reads as rewritten:

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

- 28 (1) Signed and filed a declaration of intent to participate in this Article.
- 29 (2) Submitted a report itemizing the appropriate number of qualifying
30 contributions received from registered voters, which the Board shall
31 verify through a random sample or other means it adopts. The report
32 shall include the county of residence of each registered voter listed.
- 33 (3) ~~Qualified to receive votes on the ballot as a candidate for the~~
34 ~~office.~~ Filed a valid notice of candidacy pursuant to Article 25 of this
35 Chapter.
- 36 (4) Otherwise met the requirements for participation in this Article.

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

40 **SECTION 5.** G.S. 163-278.64(d) reads as rewritten:

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

- 1 (1) Beginning January 1 of the year before the election and before the
2 filing of a declaration of intent, a candidate for office may accept in
3 contributions up to ten thousand dollars (\$10,000) from sources and in
4 amounts permitted by Article 22A of this Chapter and may expend up
5 to ten thousand dollars (\$10,000) for any campaign purpose. A
6 candidate who exceeds either of these limits shall be ineligible to file a
7 declaration of intent or receive funds from the Public Campaign
8 Financing Fund.
- 9 (2) From the filing of a declaration of intent through the end of the
10 qualifying period, a candidate ~~shall~~may accept only qualifying
11 contributions, contributions under ten dollars (\$10.00) from North
12 Carolina voters, and personal and family contributions permitted under
13 subdivision (4) of this subsection. The total contributions the candidate
14 may accept during this period shall not exceed the maximum
15 qualifying contributions for that candidate. In addition to these
16 contributions, the candidate may only expend during this period ~~no~~
17 ~~more than an amount equal to the maximum qualifying contributions~~
18 ~~for that candidate, not including possible rescue funds or the remaining~~
19 ~~money raised pursuant to subdivision (1) of this subsection.~~ subsection
20 and possible rescue funds received pursuant to G.S. 163-278.67.
21 ~~Contributions a candidate may use to expend to that limit shall be~~
22 ~~limited to qualifying contributions, and personal and family~~
23 ~~contributions permitted by subdivision (4) of this subsection.~~
- 24 (3) After the qualifying period and through the date of the general
25 election, the candidate shall expend only the funds the candidate
26 receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any
27 funds remaining from the qualifying period and possible rescue funds.
- 28 (4) During the qualifying period, the candidate may contribute up to one
29 thousand dollars (\$1,000) of that candidate's own money to the
30 ~~campaign and~~ campaign. Debt incurred by the candidate for a
31 campaign expenditure shall count toward that limit. The candidate may
32 accept in contributions one thousand dollars (\$1,000) from each
33 member of that candidate's family consisting of spouse, parent, child,
34 brother, and sister.
- 35 (5) A candidate and the candidate's committee shall limit the use of all
36 revenues permitted by this subsection to expenditures for
37 campaign-related purposes only. The Board shall publish guidelines
38 outlining permissible campaign-related expenditures. In establishing
39 those guidelines, the Board shall differentiate expenditures that
40 reasonably further a candidate's campaign from expenditures for
41 personal use that would be incurred in the absence of the candidacy. In
42 establishing the guidelines, the Board shall review relevant provisions
43 of G.S. 163-278.42(e), the Federal Election Campaign Act, and rules
44 adopted pursuant to it, and similar provisions in other states.

- 1 (6) Any contribution received by a participating or certified candidate that
2 falls outside that permitted by this subsection shall be returned to the
3 donor as soon as practicable. Contributions intentionally made,
4 solicited, or accepted in violation of this Article are subject to civil
5 penalties as specified in G.S. 163-278.70. The funds involved shall be
6 forfeited to the Civil Penalty and Forfeiture Fund.
- 7 (7) A candidate shall return to the Fund any amount distributed for an
8 election that is unspent and uncommitted at the date of the election, or
9 at the time the individual ceases to be a certified candidate, whichever
10 occurs first. For accounting purposes, all qualifying, personal, and
11 family contributions shall be considered spent before revenue from the
12 Fund is spent or committed."

13 **SECTION 6.** G.S. 163-278.69(a) reads as rewritten:

14 "(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that
15 explains the functions of the appellate courts and the laws concerning the election of
16 appellate judges, the purpose and function of the Public Campaign ~~Financing~~ Fund, and
17 the laws concerning voter registration. The Board shall distribute the Guide to as many
18 voting-age individuals in the State as practical, through a mailing to all residences or
19 other means it deems effective. The distribution shall occur no more than ~~28~~14 days nor
20 fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for
21 the primary and no more than 2814 days nor fewer than seven days before the one-stop
22 voting period provided in G.S. 163-227.2 for the general election."

23 **SECTION 7.** G.S. 163-278.5 reads as rewritten:

24 "**§ 163-278.5. Scope of Article; severability.**

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

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

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

36 **SECTION 8.** G.S. 163-278.23 reads as rewritten:

37 "**§ 163-278.23. Duties of Executive Director of Board.**

38 The Executive Director of the Board shall inspect or cause to be inspected each
39 statement filed with the Board under this Article within 30 days after the date it is filed.
40 The Executive Director shall advise, or cause to be advised, no more than 30 days and at
41 least five days before each report is due, each candidate or treasurer whose
42 organizational report has been filed, of the specific date each report is due. He shall
43 immediately notify any individual, candidate, treasurer, political committee, referendum

1 committee, media, or other entity that may be required to file a statement under this
2 Article if:

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

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

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

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 9.(a)** G.S. 163-278.81 reads as rewritten:

32 "**§ 163-278.81. Disclosure of Electioneering Communications.**

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

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

- 42 (1) The identification of the entity making the disbursement, of any entity
43 sharing or exercising direction or control over the activities of that

entity, and of the custodian of the books and accounts of the entity making the disbursement.

- (2) The principal place of business of the entity making the disbursement if the entity is not an individual.
- (3) The amount of each disbursement of more than one thousand dollars (\$1,000) during the period covered by the statement and the 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 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 9.(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.

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

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

7 **SECTION 9.(c)** G.S. 163-278.91 reads as rewritten:

8 **"§ 163-278.91. Disclosure of Electioneering Communications.**

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

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

18 (1) The identification of the entity making the disbursement, of any entity
19 sharing or exercising direction or control over the activities of that
20 entity, and of the custodian of the books and accounts of the entity
21 making the disbursement.

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

24 (3) The amount of each disbursement of more than one thousand dollars
25 (\$1,000) during the period covered by the statement and the
26 identification of the entity to whom the disbursement was made.

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

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

40 (6) ~~If the disbursements were paid out of funds not described in~~
41 ~~subdivision (5) of this subsection, the names and addresses of all~~
42 ~~contributors who contributed an aggregate amount of more than one~~
43 ~~thousand dollars (\$1,000) to the entity making the disbursement during~~

1 the period beginning on the first day of the preceding calendar year
2 and ending on the disclosure date."

3 **SECTION 9.(d)** G.S. 163-278.92 reads as rewritten:

4 "**§ 163-278.92. Prohibition of corporate and labor disbursements for electioneering**
5 **communications.**

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

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

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

25 **SECTION 10.** G.S. 163-278.6(7) reads as rewritten:

26 "(7) The term "corporation" means any corporation ~~doing business in this~~
27 ~~State~~ established under either domestic or foreign charter, and includes
28 a corporate subsidiary and any business entity in which a corporation
29 participates or is a stockholder, a partner or a joint venturer. The term
30 applies regardless of whether the corporation does business in the State
31 of North Carolina."

32 **SECTION 11.** This act becomes effective December 1, 2005, and applies to
33 all contributions and expenditures made or accepted on or after that date.