

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 966
Senate Judiciary I Committee Substitute Adopted 7/19/06

Short Title: Candidate-Specific Communications.

(Public)

Sponsors:

Referred to:

March 29, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE DISCLOSURE OF CANDIDATE-SPECIFIC
3 COMMUNICATIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 163 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 22G.

8 "Candidate-Specific Communications.

9 **"§ 163-278.100. Definitions.**

10 As used in this Article, the following terms have the following definitions:

11 (1) The term "candidate-specific communication" means any broadcast,
12 cable, or satellite communication that has all the following
13 characteristics:

14 a. Refers to a clearly identified candidate for a statewide office or
15 the General Assembly.

16 b. Is made in an even-numbered year after the final date on which
17 a Notice of Candidacy can be filed for the office, pursuant to
18 G.S. 163-106(c) or G.S. 163-323, and through the day on which
19 the general election is conducted, excluding the time period set
20 in the definition for "electioneering communication" in
21 G.S. 163-278.80(2)b.

22 c. Is targeted to the relevant electorate.

23 (2) The term "candidate-specific communication" does not include any of
24 the following:

25 a. A communication appearing in a news story, commentary, or
26 editorial distributed through the facilities of any broadcasting
27 station, unless those facilities are owned or controlled by any
28 political party, political committee, or candidate.

- 1 b. A communication that constitutes an expenditure or
2 independent expenditure under Article 22A of this Chapter.
3 c. A communication that constitutes a candidate debate or forum
4 conducted pursuant to rules adopted by the Board or that solely
5 promotes that debate or forum and is made by or on behalf of
6 the person sponsoring the debate or forum.
7 d. A communication made while the General Assembly is in
8 session which, incidental to advocacy for or against a specific
9 piece of legislation pending before the General Assembly, urges
10 the audience to communicate with a member or members of the
11 General Assembly concerning that piece of legislation.
12 e. An electioneering communication as defined in Article 22E of
13 this Chapter.
14 (3) The term "disclosure date" means either of the following:
15 a. The first date during any calendar year when a
16 candidate-specific communication is aired after an entity has
17 incurred expenses for the direct costs of producing or airing
18 candidate-specific communications aggregating in excess of ten
19 thousand dollars (\$10,000).
20 b. Any other date during that calendar year by which an entity has
21 incurred expenses for the direct costs of producing or airing
22 candidate-specific communications aggregating in excess of ten
23 thousand dollars (\$10,000) since the most recent disclosure date
24 for that calendar year.
25 (4) The term "targeted to the relevant electorate" means a communication
26 which refers to a clearly identified candidate for statewide office or the
27 General Assembly and which can be received by 50,000 or more
28 individuals in the State in the case of a candidacy for statewide office
29 and 2,500 or more individuals in the district in the case of a candidacy
30 for General Assembly.
31 (5) Except as otherwise provided in this Article, the definitions in Article
32 22A of this Chapter apply in this Article.

33 **§ 163-278.101. Disclosure of candidate-specific communications.**

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

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

- 43 (1) The identification of the entity incurring the expense, of any entity
44 sharing or exercising direction or control over the activities of that

1 entity, and of the custodian of the books and accounts of the entity
2 incurring the expense.

3 (2) The principal place of business of the entity incurring the expense if
4 the entity is not an individual.

5 (3) The amount of each expense incurred of more than one thousand
6 dollars (\$1,000) during the period covered by the statement and the
7 identification of the entity to whom the expense was incurred.

8 (4) The candidates in the candidate-specific communications that are
9 identified or are to be identified.

10 (5) The identity of every provider of funds or anything of value
11 whatsoever to the entity, providing an amount in excess of five
12 thousand dollars (\$5,000). If the provider is an individual, the
13 statement shall also contain the principal occupation of the provider.
14 The "principal occupation of the provider" shall mean the same as the
15 "principal occupation of the contributor" in G.S. 163-278.11.

16 (c) Creating Multiple Organizations. – It shall be unlawful for any person or
17 entity to create, establish, or organize more than one political organization (as defined in
18 section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the
19 reporting requirements contained in this Article.

20 **"§ 163-278.102. Penalties.**

21 The State Board of Elections has the same authority to compel from any
22 organization covered by this Article the disclosures required by this Article that the
23 Board has to compel from a political committee the disclosures required by Article 22A
24 of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to
25 violations of this Article."

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

28 "Article 22H.

29 "Mass Mailings and Telephone Banks: Candidate-Specific Communications.

30 **"§ 163-278.110. Definitions.**

31 As used in this Article, the following terms have the following definitions:

32 (1) The term "candidate-specific communication" means any mass mailing
33 or telephone bank that has all the following characteristics:

34 a. Refers to a clearly identified candidate for a statewide office or
35 the General Assembly.

36 b. Is made in an even-numbered year after the final date on which
37 a Notice of Candidacy can be filed for the office, pursuant to
38 G.S. 163-106(c) or G.S. 163-323, and through the day on which
39 the general election is conducted, excluding the time period set
40 in the definition for "electioneering communication" in
41 G.S. 163-278.90(2)b.

42 c. Is targeted to the relevant electorate.

43 (2) The term "candidate-specific communication" does not include any of
44 the following:

- 1 a. A communication appearing in a news story, commentary, or
2 editorial distributed through any newspaper or periodical,
3 unless that publication is owned or controlled by any political
4 party, political committee, or candidate.
- 5 b. A communication that constitutes an expenditure or
6 independent expenditure under Article 22A of this Chapter.
- 7 c. A communication that constitutes a candidate debate or forum
8 conducted pursuant to rules adopted by the Board or that solely
9 promotes that debate or forum and is made by or on behalf of
10 the person sponsoring the debate or forum.
- 11 d. A communication that is distributed by a corporation solely to
12 its shareholders or employees or by a labor union or
13 professional association solely to its members.
- 14 e. A communication made while the General Assembly is in
15 session which, incidental to advocacy for or against a specific
16 piece of legislation pending before the General Assembly, urges
17 the audience to communicate with a member or members of the
18 General Assembly concerning that piece of legislation.
- 19 f. An electioneering communication as defined in Article 22F of
20 this Chapter.
- 21 g. An objective public opinion poll.
- 22 (3) The term "disclosure date" means either of the following:
- 23 a. The first date during any calendar year when a
24 candidate-specific communication is transmitted after an entity
25 has incurred expenses for the direct costs of producing or
26 transmitting candidate-specific communications aggregating in
27 excess of ten thousand dollars (\$10,000).
- 28 b. Any other date during that calendar year by which an entity has
29 incurred expenses for the direct costs of producing or
30 transmitting candidate-specific communications aggregating in
31 excess of ten thousand dollars (\$10,000) since the most recent
32 disclosure date for that calendar year.
- 33 (4) The term "mass mailing" means any mailing by United States mail or
34 facsimile. Part 1A of Article 22A of this Chapter has its own internal
35 definition of "mass mailing" under the definition of "print media," and
36 that definition does not apply in this Article.
- 37 (5) The term "race" means a ballot item, as defined in G.S. 163-165(2), in
38 which the voters are to choose between or among candidates.
- 39 (6) The term "targeted to the relevant electorate" means:
- 40 a. With respect to a statewide race:
- 41 1. Transmitting, by mail or facsimile to a cumulative total
42 of 50,000 or more addresses in the State, items
43 identifying one or more candidates in the same race
44 within any 30-day period; or

- 1 2. Making a cumulative total of 50,000 or more telephone
2 calls in the State identifying one or more candidates in
3 the same race within any 30-day period.
4 b. With respect to a race for the General Assembly:
5 1. Transmitting, by mail or facsimile to a cumulative total
6 of 2,500 or more addresses in the district, items
7 identifying one or more candidates in the same race
8 within any 30-day period; or
9 2. Making a cumulative total of 2,500 or more telephone
10 calls in the district identifying one or more candidates in
11 the same race within any 30-day period.

- 12 (7) The term "telephone bank" means telephone calls that are targeted to
13 the relevant electorate, except when those telephone calls are made by
14 volunteer workers, whether or not the design of the telephone bank
15 system, development of calling instructions, or training of volunteers
16 was done by paid professionals.

17 **§ 163-278.111. Disclosure of candidate-specific communications.**

18 (a) Statement Required. – Every individual, committee, association, or any other
19 organization or group of individuals that incurs an expense for the direct costs of
20 producing or transmitting candidate-specific communications in an aggregate amount in
21 excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours
22 of each disclosure date, file with the Board a statement containing the information
23 described in subsection (b) of this section.

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

- 27 (1) The identification of the entity incurring the expense, of any entity
28 sharing or exercising direction or control over the activities of that
29 entity, and of the custodian of the books and accounts of the entity
30 incurring the expense.
31 (2) The principal place of business of the entity incurring the expense if
32 the entity is not an individual.
33 (3) The amount of each expense incurred of more than one thousand
34 dollars (\$1,000) during the period covered by the statement and the
35 identification of the entity to whom the expense was incurred.
36 (4) The candidates in the candidate-specific communications that are
37 identified or are to be identified.
38 (5) The identity of every provider of funds or anything of value
39 whatsoever to the entity, providing an amount in excess of five
40 thousand dollars (\$5,000). If the provider is an individual, the
41 statement shall also contain the principal occupation of the provider.
42 The "principal occupation of the provider" shall mean the same as the
43 "principal occupation of the contributor" in G.S. 163-278.11.

1 (c) Creating Multiple Organizations. – It shall be unlawful for any person or
2 entity to create, establish, or organize more than one political organization (as defined in
3 section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the
4 reporting requirements contained in this Article.

5 **"§ 163-278.112. Penalties.**

6 The State Board of Elections has the same authority to compel from any
7 organization covered by this Article the disclosures required by this Article that the
8 Board has to compel from a political committee the disclosures required by Article 22A
9 of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to
10 violations of this Article."

11 **SECTION 3.** The provisions of this act are severable. If any provision of
12 this act is held invalid by a court of competent jurisdiction, the invalidity does not affect
13 other provisions of the act that can be given effect without the invalid provision.

14 **SECTION 4.** This act becomes effective January 1, 2007.