

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 1128
Committee Substitute Favorable 5/5/05**

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(e) reads as rewritten:

28 "(e) Every treasurer of a political committee who has not previously attended a
29 training conducted by the State Board of Elections or referendum committee shall

1 receive, prior to every election in which the political committee or referendum
2 committee is involved, training from the State Board of Elections as to the duties of the
3 office, including the requirements of G.S. 163-278.13(e1), provided that the treasurer
4 may designate an employee or volunteer of the committee to receive the training. This
5 subsection shall not apply to a political committee where the candidate is the treasurer."

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

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

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

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

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

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

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

37 "(6) The terms "contribute" or "contribution" mean any advance,
38 conveyance, deposit, distribution, transfer of funds, loan, payment,
39 gift, pledge or subscription of money or anything of value whatsoever,
40 to a candidate to support or oppose the nomination or election of one
41 or more clearly identified candidates, to a political committee, to a
42 political party, or to a referendum committee, whether or not made in
43 an election year, and any contract, agreement, promise or other
44 obligation, whether or not legally enforceable, to make a contribution.

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

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

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

37 "(d) For the purposes of this section, the term "an election" means any primary,
38 runoff, second primary, or general election general election, or vacancy election in
39 which the candidate or political committee may be involved, without regard to whether
40 the candidate is opposed or unopposed in the election, except that where a candidate is
41 not on the ballot in a runoff or second primary, that runoff or second primary is not "an
42 election" with respect to that candidate."

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

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

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

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

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

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

- 21 (1) Beginning January 1 of the year before the election and before the
22 filing of a declaration of intent, a candidate for office may accept in
23 contributions up to ten thousand dollars (\$10,000) from sources and in
24 amounts permitted by Article 22A of this Chapter and may expend up
25 to ten thousand dollars (\$10,000) for any campaign purpose. A
26 candidate who exceeds either of these limits shall be ineligible to file a
27 declaration of intent or receive funds from the Public Campaign
28 Financing Fund.
- 29 (2) From the filing of a declaration of intent through the end of the
30 qualifying period, a candidate ~~shall~~may accept only qualifying
31 contributions, contributions under ten dollars (\$10.00) from North
32 Carolina voters, and personal and family contributions permitted under
33 subdivision (4) of this subsection. The total contributions the candidate
34 may accept during this period shall not exceed the maximum
35 qualifying contributions for that candidate. In addition to these
36 contributions, the candidate may only expend during this period ~~no~~
37 more than an amount equal to the maximum qualifying contributions
38 for that candidate, not including possible rescue funds or the remaining
39 money raised pursuant to subdivision (1) of this ~~subsection.~~ subsection
40 and possible rescue funds received pursuant to G.S. 163-278.67.
41 Contributions a candidate may use to expend to that limit shall be
42 limited to qualifying contributions, and personal and family
43 contributions permitted by subdivision (4) of this subsection.

- 1 (3) After the qualifying period and through the date of the general
2 election, the candidate shall expend only the funds the candidate
3 receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any
4 funds remaining from the qualifying period and possible rescue funds.
- 5 (4) During the qualifying period, the candidate may contribute up to one
6 thousand dollars (\$1,000) of that candidate's own money to the
7 ~~campaign and campaign~~. Debt incurred by the candidate for a
8 campaign expenditure shall count toward that limit. The candidate may
9 accept in contributions one thousand dollars (\$1,000) from each
10 member of that candidate's family consisting of spouse, parent, child,
11 brother, and sister.
- 12 (5) A candidate and the candidate's committee shall limit the use of all
13 revenues permitted by this subsection to expenditures for
14 campaign-related purposes only. The Board shall publish guidelines
15 outlining permissible campaign-related expenditures. In establishing
16 those guidelines, the Board shall differentiate expenditures that
17 reasonably further a candidate's campaign from expenditures for
18 personal use that would be incurred in the absence of the candidacy. In
19 establishing the guidelines, the Board shall review relevant provisions
20 of G.S. 163-278.42(e), the Federal Election Campaign Act, and rules
21 adopted pursuant to it, and similar provisions in other states.
- 22 (6) Any contribution received by a participating or certified candidate that
23 falls outside that permitted by this subsection shall be returned to the
24 donor as soon as practicable. Contributions intentionally made,
25 solicited, or accepted in violation of this Article are subject to civil
26 penalties as specified in G.S. 163-278.70. The funds involved shall be
27 forfeited to the Civil Penalty and Forfeiture Fund.
- 28 (7) A candidate shall return to the Fund any amount distributed for an
29 election that is unspent and uncommitted at the date of the election, or
30 at the time the individual ceases to be a certified candidate, whichever
31 occurs first. For accounting purposes, all qualifying, personal, and
32 family contributions shall be considered spent before revenue from the
33 Fund is spent or committed."

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

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

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

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

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

16 "**§ 163-278.5. Scope of Article; severability.**

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

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

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

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

29 "**§ 163-278.23. Duties of Executive Director of Board.**

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

- 38 (1) It appears that the individual, candidate, treasurer, political committee,
39 referendum committee, media, or other entity has failed to file a
40 statement as required by law or that a statement filed does not conform
41 to this Article; or
- 42 (2) A written complaint is filed under oath with the Board by any
43 registered voter of this State alleging that a statement filed with the
44 Board does not conform to this Article or to the truth or that an

1 individual, candidate, treasurer, political committee, referendum
2 committee, media, or other entity has failed to file a statement required
3 by this Article.

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

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

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

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

23 **"§ 163-278.81. Disclosure of Electioneering Communications.**

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

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

33 (1) The identification of the entity making the disbursement, of any entity
34 sharing or exercising direction or control over the activities of that
35 entity, and of the custodian of the books and accounts of the entity
36 making the disbursement.

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

39 (3) The amount of each disbursement of more than one thousand dollars
40 (\$1,000) during the period covered by the statement and the
41 identification of the entity to whom the disbursement was made.

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

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

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

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

19 **"§ 163-278.82. Prohibition of corporate and labor disbursements for electioneering**
20 **communications.**

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

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

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

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

41 **"§ 163-278.91. Disclosure of Electioneering Communications.**

42 (a) **Statement Required.** – Every individual, committee, association, or any other
43 organization or group of individuals who makes a disbursement for the direct costs of
44 producing and transmitting electioneering communications in an aggregate amount in

1 excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours
2 of each disclosure date, file with the Board a statement containing the information
3 described in subsection (b) of this section.

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

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

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

13 (3) The amount of each disbursement of more than one thousand dollars
14 (\$1,000) during the period covered by the statement and the
15 identification of the entity to whom the disbursement was made.

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

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

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

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

36 **"§ 163-278.92. Prohibition of corporate and labor disbursements for electioneering**
37 **communications.**

38 (a) Prohibition. – No prohibited source may make any disbursement for the costs
39 of producing or airing any electioneering communication. No individual, committee,
40 association, or any other organization or group of individuals, including but not limited
41 to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code
42 of 1986), which has received any payment from a prohibited source may make any
43 disbursement for the costs of producing and airing any electioneering communication.
44 For the purpose of this section, the term "electioneering communication" does not

1 include a communication by a section 501(c)(4) organization or a political organization
2 (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) if the
3 communication is paid for exclusively by funds provided by individuals and the
4 disbursements for costs of producing and airing the communication are paid out of a
5 segregated bank account that consists of funds contributed solely by ~~individuals~~ entities
6 other than prohibited sources directly to that account.

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

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

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