

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**HOUSE BILL 1847
RATIFIED BILL**

AN ACT TO STRENGTHEN REGULATION OF ELECTIONEERING
COMMUNICATIONS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-278.80(1) reads as rewritten:

"(1) The term "disclosure date" means either of the following:

- a. The first date during any calendar year when an electioneering communication is aired after an entity has ~~made disbursements~~incurred expenses for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000).
- b. Any other date during that calendar year by which an entity has ~~made disbursements~~incurred expenses for the direct costs of producing or airing electioneering communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year."

SECTION 1.(b) G.S. 163-278.90 reads as rewritten:

"§ 163-278.90. Definitions.

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

- (1) The term "disclosure date" means either of the following:
 - a. The first date during any calendar year when an electioneering communication is transmitted after an entity has ~~made disbursements~~incurred expenses for the direct costs of producing or transmitting electioneering communications aggregating in excess of ten thousand dollars (\$10,000).
 - b. Any other date during that calendar year by which an entity has ~~made disbursements~~incurred expenses for the direct costs of producing or transmitting electioneering communications aggregating in excess of ten thousand dollars (\$10,000) since the most recent disclosure date for that calendar year.
- (2) The term "electioneering communication" means any mass mailing or telephone bank that has all the following characteristics:
 - a. Refers to a clearly identified candidate for a statewide office or the General Assembly.
 - b. Is made within one of the following time periods:
 1. 60 days before a general or special an election for the office sought by the candidate, or
 2. 30 days before a primary election or a convention of a political party that has authority to nominate a candidate for the office sought by the candidate.
 - c. Is targeted to the relevant electorate.
- (3) The term "electioneering communication" does not include any of the following:
 - a. A communication appearing in a news story, commentary, or editorial distributed through any newspaper or periodical,

- unless that publication is owned or controlled by any political party, political committee, or candidate.
- b. A communication that constitutes an expenditure or independent expenditure under Article 22A of this Chapter.
 - c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
 - d. A communication that is distributed by a corporation solely to its shareholders or employees, or by a labor union or professional association solely to its members.
 - e. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly concerning that piece of legislation.
- (4) ~~The term "mass mailing" means any mailing by United States mail or facsimile that is targeted to the relevant electorate and is made by a commercial vendor or made from any commercial list, facsimile.~~ Part 1A of Article 22A of this Chapter has its own internal definition of "mass mailing" under the definition of "print media," and that definition does not apply in this Article.
- (5) The term "prohibited source" means any corporation, insurance company, labor union, or professional association. The term "prohibited source" does not include an entity that meets all the criteria set forth in G.S. 163-278.19(f).
- (5a) The term "race" means a ballot item, as defined in G.S. 163-165(2), in which the voters are to choose between or among candidates.
- (6) ~~The term "targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the General Assembly and which electorate" means:~~
- a. ~~If transmitted by mail or facsimile in connection with a clearly identified candidate for statewide office, is transmitted to 50,000 or more addresses in the State, by the transmission of identical or substantially similar matter within any 30 day period, or, in connection with a clearly identified candidate for the General Assembly, is transmitted to 5,000 or more addresses in the district, by the transmission of identical or substantially identical matter within any 30 day period.~~
 - b. ~~If transmitted by telephone, in connection with a clearly identified candidate for statewide office, more than 50,000 telephone calls in the State of an identical or substantially similar nature within any 30 day period, or in the case of a clearly identified candidate for the General Assembly, more than 5,000 calls in the district of an identical or substantially similar nature within any 30 day period.~~
- a. With respect to a statewide race:
 - 1. Transmitting, by mail or facsimile to a cumulative total of 50,000 or more addresses in the State, items identifying one or more candidates in the same race within any 30-day period; or
 - 2. Making a cumulative total of 50,000 or more telephone calls in the State identifying one or more candidates in the same race within any 30-day period.
 - b. With respect to a race for the General Assembly:

1. Transmitting, by mail or facsimile to a cumulative total of 2,500 or more addresses in the district, items identifying one or more candidates in the same race within any 30-day period; or
 2. Making a cumulative total of 2,500 or more telephone calls in the district identifying one or more candidates in the same race within any 30-day period.
- (7) The term "telephone bank" means telephone calls that are targeted to the relevant electorate, except when those telephone calls are made by volunteer workers, whether or not the design of the telephone bank system, development of calling instructions, or training of volunteers was done by paid professionals.
- (8) The term "501(c)(4) organization" means either of the following:
- a. An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code.
 - b. An organization that has submitted an application to the Internal Revenue Service for determination of its status as an organization described in sub-subdivision a. of this subdivision.
- (9) Except as otherwise provided in this Article, the definitions in Article 22A of this Chapter apply in this Article."

SECTION 2.(a) G.S. 163-278.81 reads as rewritten:

"§ 163-278.81. Disclosure of Electioneering Communications.

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

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

- (1) The identification of the entity ~~making the disbursement, incurring the expense,~~ of any entity 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 incurring the expense.
- (2) The principal place of business of the entity ~~making the disbursement incurring the expense~~ if the entity is not an individual.
- (3) The amount of each disbursement expense incurred 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 expense was incurred.
- (4) The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified.
- (5) The names and addresses of all ~~contributors who contributed entities~~ that provided funds or anything of value whatsoever in 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 provided 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. If the provider is an individual, the statement shall also contain the principal occupation of the provider. The "principal occupation of the provider" shall mean the

same as the "principal occupation of the contributor" in G.S. 163-278.11.

- (6) Repealed by Session Laws 2005-430, s. 9(a), effective December 1, 2005, and applicable to all contributions and expenditures made or accepted on or after that date."

SECTION 2.(b) G.S. 163-278.91 reads as rewritten:

"§ 163-278.91. Disclosure of Electioneering Communications.

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

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

- (1) The identification of the entity ~~making the disbursement, incurring the expense,~~ of any entity 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 incurring the expense.
- (2) The principal place of business of the entity ~~making the disbursement incurring the expense~~ if the entity is not an individual.
- (3) The amount of each disbursement expense incurred 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 expense was incurred.
- (4) The elections to which the electioneering communications pertain and the names, if known, of the candidates identified or to be identified.
- (5) The names and addresses of all ~~contributors who contributed entities~~ that provided funds or anything of value whatsoever in 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 provided 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. If the provider is an individual, the statement shall also contain the principal occupation of the provider. The "principal occupation of the provider" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.
- (6) Repealed by Session Laws 2005-430, s. 9(c), effective December 1, 2005, and applicable to all contributions and expenditures made or accepted on or after that date."

SECTION 3.(a) G.S. 163-278.82(a) reads as rewritten:

"(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 funds or anything of value whatsoever~~ from a prohibited source may make any disbursement for the costs of producing and or airing any electioneering communication, unless that individual, committee, association, or other organization or group of individuals maintains a segregated bank account that consists of funds provided solely by entities other than prohibited sources. ~~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 entities other than prohibited sources directly to that account. For purposes of this section, the term "funds or anything of value whatsoever" shall not include monies paid to an individual, committee, association, or other organization or group of individuals for services rendered or other payment of debt owed. It shall be unlawful for any person or entity to create, establish, or organize more than one political organization (as defined in section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the prohibitions on disbursements for electioneering communications from prohibited sources or the reporting requirements contained in this Article."~~

SECTION 3.(b) G.S. 163-278.92(a) reads as rewritten:

"(a) Prohibition. – No prohibited source may make any disbursement for the costs of producing or ~~airing~~ transmitting 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~~ funds or anything of value whatsoever from a prohibited source may make any disbursement for the costs of producing and ~~airing~~ or transmitting any electioneering ~~communication~~ communication, unless that individual, committee, association, or other organization or group of individuals maintains a segregated bank account that consists of funds provided solely by entities other than prohibited sources. 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 entities other than prohibited sources directly to that account. For purposes of this section, the term "funds or anything of value whatsoever" shall not include monies paid to an individual, committee, association, or other organization or group of individuals for services rendered or other payment of debt owed. It shall be unlawful for any person or entity to create, establish, or organize more than one political organization (as defined in section 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the prohibitions on disbursements for electioneering communications from prohibited sources or the reporting requirements contained in this Article."~~

SECTION 4. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 5. This act is effective when it becomes law, except that any criminal penalty resulting from this act becomes effective October 1, 2006.
In the General Assembly read three times and ratified this the 17th day of July, 2006.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2006