

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1126

Short Title: Campaign Finance Reform.

(Public)

Sponsors: Representatives Flaherty; and Pope.

Referred to: Courts, Justice, Constitutional Amendments and Referenda.

April 24, 1991

A BILL TO BE ENTITLED

AN ACT TO REFORM THE CAMPAIGN FINANCE LAWS.

The General Assembly of North Carolina enacts:

—CHANGE CERTAIN VIOLATIONS TO FELONIES

Section 1. G.S. 163-269 reads as rewritten:

"§ 163-269. Violations by corporations.

It shall be unlawful for any corporation doing business in this State, either domestic or foreign charter, directly or indirectly to make any contribution or expenditure in aid or in behalf of any candidate or campaign committee in any primary or election held in this State, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used, or for any contribution or expenditure so made; or for any officer, director, stockholder, attorney or agent of any corporation to aid, abet, advise or consent to any such contribution or expenditure, or for any person to solicit or knowingly receive any such contribution or expenditure.

Any officer, director, stockholder, attorney or agent of any corporation aiding or abetting in any contribution or expenditure made in violation of this section shall, in addition to being guilty of a misdemeanor as hereinafter set out, be liable to such corporation for the amount of such contribution or expenditure, and the same may be recovered of him upon suit by any stockholder thereof. Any person violating this section shall be guilty of a ~~misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court~~ Class J felony."

Sec. 2. G.S. 163-270 reads as rewritten:

"§ 163-270. Using funds of insurance companies for political purposes.

1 No insurance company or association, including fraternal beneficiary associations,
2 doing business in this State shall, directly or indirectly, pay or use, or offer, consent or
3 agree to pay or use, any money or property for or in aid of any political party,
4 committee or organization, or for or in aid of any corporation, joint-stock company, or
5 other association organized or maintained for political purposes, or for or in aid of any
6 candidate for political office or for nomination for such office, or for any political
7 purpose whatsoever, or for the reimbursement or indemnification of any person for
8 money or property so used. An officer, director, stockholder, attorney or agent for any
9 corporation or association which violates any of the provisions of this section, who
10 participates in, aids, abets, advises or consents to any such violation, and any person
11 who solicits or knowingly receives any money or property in violation of this section,
12 shall be guilty of a ~~misdemeanor~~ Class J felony.

13 Any officer aiding or abetting in any contribution made in violation of this section
14 shall be liable to the company or association for the amount so contributed. The
15 Commissioner of Insurance may revoke the license of any company violating this
16 section. No person shall be excused from attending and testifying, or producing any
17 books, papers or other documents before any court or magistrate, upon any
18 investigation, proceeding or trial for a violation of any of the provisions of this section,
19 upon the ground or for the reason that the testimony or evidence, documentary or
20 otherwise, required of him may tend to incriminate or degrade him; but no person shall
21 be prosecuted or subjected to any penalty or ~~forfeiture~~ forfeiture for or on account of
22 any transaction, matter or thing concerning which he may so testify or produce
23 evidence, documentary or otherwise, and no testimony so given or produced shall be
24 used against him upon criminal investigation or proceeding."

25 Sec. 3. G.S. 163-271 reads as rewritten:

26 "**§ 163-271. Intimidation of voters by officers made ~~misdemeanor~~ felony.**

27 It shall be unlawful for any person holding any office, position, or employment in
28 the State government, or under and with any department, institution, bureau, board,
29 commission, or other State agency, or under and with any county, city, town, district, or
30 other political subdivision, directly or indirectly, to discharge, threaten to discharge, or
31 cause to be discharged, or otherwise intimidate or oppress any other person in such
32 employment on account of any vote such voter or any member of his family may cast,
33 or consider or intend to cast, or not to cast, or which he may have failed to cast, or to
34 seek or undertake to control any vote which any subordinate of such person may cast, or
35 consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the
36 position, salary, or any part of the salary of such subordinate depends in any manner
37 whatsoever, directly or indirectly, upon the way in which subordinate or any member of
38 his family casts, or considers or intends to cast, or not to cast his vote, at any primary or
39 election. A violation of this section is a ~~misdemeanor~~ Class J felony."

40 Sec. 4. G.S. 163-273(a) reads as rewritten:

41 "(a) Any person who shall, in connection with any primary or election in this
42 State, do any of the acts and things declared in this section to be unlawful, shall be
43 guilty of a misdemeanor. It shall be unlawful:

- 1 (1) For a voter, except as otherwise provided in this Chapter, to allow his
2 ballot to be seen by any person.
- 3 (2) For a voter to take or remove, or attempt to take or remove, any ballot
4 from the voting enclosure.
- 5 (3) For any person to interfere with, or attempt to interfere with, any voter
6 when inside the voting enclosure.
- 7 (4) For any person to interfere with, or attempt to interfere with, any voter
8 when marking his ballots.
- 9 (5) For any voter to remain longer than the specified time allowed by this
10 Chapter in a voting booth, after being notified that his time has
11 expired.
- 12 (6) For any person to endeavor to induce any voter, while within the
13 voting enclosure, before depositing his ballots, to show how he marks
14 or has marked his ballots.
- 15 (7) For any person to aid, or attempt to aid, any voter by means of any
16 mechanical device, or any other means whatever, while within the
17 voting enclosure, in marking his ballots."

18 Sec. 5. G.S. 163-274 reads as rewritten:

19 **"§ 163-274. Certain acts declared ~~misdemeanors~~felonies.**

20 Any person who shall, in connection with any primary or election in this State, do
21 any of the acts and things declared in this section to be unlawful, shall be guilty of a
22 ~~misdemeanor~~Class J felony. It shall be unlawful:

- 23 (1) For any person to fail, as an officer or as a judge or registrar of a
24 primary or election, or as a member of any board of elections, to
25 prepare the books, ballots, and return blanks which it is his duty under
26 the law to prepare, or to distribute the same as required by law, or to
27 perform any other duty imposed upon him within the time and in the
28 manner required by law;
- 29 (2) For any person to continue or attempt to act as a judge or registrar of a
30 primary or election, or as a member of any board of elections, after
31 having been legally removed from such position and after having been
32 given notice of such removal;
- 33 (3) For any person to break up or by force or violence to stay or interfere
34 with the holding of any primary or election, to interfere with the
35 possession of any ballot box, election book, ballot, or return sheet by
36 those entitled to possession of the same under the law, or to interfere in
37 any manner with the performance of any duty imposed by law upon
38 any election officer or member of any board of elections;
- 39 (4) For any person to be guilty of any boisterous conduct so as to disturb
40 any member of any election board or any registrar or judge of election
41 in the performance of his duties as imposed by law;
- 42 (5) For any person to bet or wager any money or other thing of value on
43 any election;

- 1 (5a) For any person to be a witness under G.S. 163-231(a) or G.S. 163-
2 250(a) in any primary or election in which the person is a candidate for
3 nomination or election;
- 4 (6) For any person, directly or indirectly, to discharge or threaten to
5 discharge from employment, or otherwise intimidate or oppose any
6 legally qualified voter on account of any vote such voter may cast or
7 consider or intend to cast, or not to cast, or which he may have failed
8 to cast;
- 9 (7) For any person to publish in a newspaper or pamphlet or otherwise,
10 any charge derogatory to any candidate or calculated to affect the
11 candidate's chances of nomination or election, unless such publication
12 be signed by the party giving publicity to and being responsible for
13 such charge;
- 14 (8) For any person to publish or cause to be circulated derogatory reports
15 with reference to any candidate in any primary or election, knowing
16 such report to be false or in reckless disregard of its truth or falsity,
17 when such report is calculated or intended to affect the chances of such
18 candidate for nomination or election;
- 19 (9) For any person to give or promise, in return for political support or
20 influence, any political appointment or support for political office;
- 21 (10) For any chairman of a county board of elections or other returning
22 officer to fail or neglect, willfully or of malice, to perform any duty,
23 act, matter or thing required or directed in the time, manner and form
24 in which said duty, matter or thing is required to be performed in
25 relation to any primary, general or special election and the returns
26 thereof;
- 27 (11) For any clerk of the superior court to refuse to make and give to any
28 person applying in writing for the same a duly certified copy of the
29 returns of any primary or election or of a tabulated statement to a
30 primary or election, the returns of which are by law deposited in his
31 office, upon the tender of the fees therefor;
- 32 (12) For any person willfully and knowingly to impose upon any blind or
33 illiterate voter a ballot in any primary or election contrary to the wish
34 or desire of such voter, by falsely representing to such voter that the
35 ballot proposed to him is such as he desires; or
- 36 (13) Except as authorized by G.S. 163-72.2(b), for any person to provide
37 false information, or sign the name of any other person, to a written
38 report under G.S. 163-72.2."

39 ---REMOVE CAMPAIGN FINANCE REPORT EXEMPTION

40 Sec. 6. G.S. 163-278.6(18) reads as rewritten:

- 41 "(18) The term 'public office' means any office filled by election by the
42 people on a statewide, county, municipal or district basis, and this
43 Article shall be applicable to such elective offices whether the
44 election therefor is partisan or nonpartisan, ~~provided candidates for~~

1 ~~municipal and county offices in those municipalities and counties having~~
2 ~~less than 50,000 population, according to the most recent decennial~~
3 ~~census figures, shall not be required to file reports required by this~~
4 ~~Article, but this Article shall otherwise be applicable to such candidates~~
5 ~~for municipal and county offices."~~

6 Sec. 7. G.S. 163-278.40 reads as rewritten:

7 "**§ 163-278.40. Definitions.**

8 When used in this Part, words and phrases have the same meaning as in G.S. 163-
9 278.6, except that:

10 (1) The term 'board' means the county board of elections;

11 (2) The term 'city' means any incorporated city, town, or village ~~with a~~
12 ~~population of 50,000 or over, according to the most recent~~
13 ~~decennial federal census."~~

14 —ELIMINATE REGISTERED OR CERTIFIED MAIL

15 Sec. 8. G.S. 163-35(b) reads as rewritten:

16 "(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the
17 county board of elections stating that the nominee for supervisor of elections is
18 submitted for appointment upon majority selection by the county board of elections the
19 Executive Secretary-Director shall issue a letter of appointment of such nominee to the
20 chairman of the county board of elections within 10 days after receipt of the
21 nomination. Thereafter, the county board of elections shall enter in its official minutes
22 the specified duties, responsibilities and designated authority assigned to the supervisor
23 by the county board of elections. A copy of the specified duties, responsibilities and
24 designated authority assigned to the supervisor shall be filed with the State Board of
25 Elections.

26 The county board of elections may, by petition signed by a majority of the board,
27 recommend to the Executive Secretary-Director of the State Board of Elections the
28 termination of the employment of the county board's supervisor of elections. The
29 petition shall clearly state the reasons for termination. Upon receipt of the petition, the
30 Executive Secretary-Director shall forward a copy of same by ~~certified mail, return receipt~~
31 ~~requested, first-class mail~~ to the county supervisor of elections involved. The county
32 supervisor of elections may reply to said petition within 15 days of receipt thereof.
33 Within 20 days of receipt of the county supervisor of elections' reply or the expiration of
34 the time period allowed for the filing of said reply, the State Executive Secretary-
35 Director shall render a decision as to the termination or retention of the county
36 supervisor of elections. The decision of the Executive Secretary-Director of the State
37 Board of Elections shall be final unless such decision shall, within 20 days from the
38 official date on which it was made, be deferred by the State Board of Elections, in
39 which event a public hearing shall be conducted by said State Board or any single
40 member designated by the remaining four members, in the county seat of the county
41 involved. Following the conduct of such public hearing and a decision by the State
42 Board of Elections, the chairman of said Board shall notify the Executive Secretary-
43 Director of the State Board of Elections, in writing, of the decision resulting from the
44 public hearing. If the decision, rendered by the State Board of Elections, results in

1 concurrence with the decision entered by the Executive Secretary-Director, the decision
2 becomes final. If the decision rendered by the Board is contrary to that entered by the
3 Executive Secretary-Director, then the Executive Secretary-Director shall, within 15
4 days from the written notification, enter an amended decision consistent with the results
5 of the decision by the State Board of Elections. The employment of any supervisor of
6 elections presently employed or hereafter employed shall not be terminated except in
7 compliance with the procedures herein prescribed. For the purposes of this subsection
8 the individual designated by the remaining four members of the State Board shall
9 possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

10 Sec. 9. G.S. 163-181 reads as rewritten:

11 **"§ 163-181. Certification of election stayed when election is contested.**

12 The chairman of the county or city board of elections shall not issue a certification
13 of election or nomination or the results of a referendum if there is an election contest
14 pending before the county or city board of election or before the State Board of
15 Elections on appeal or otherwise.

16 Appeals from a decision of the State Board of Elections shall be to the Superior
17 Court of Wake County.

18 A copy of the State Board of Elections' final decision shall be served on the parties
19 personally or by ~~certified~~first-class mail. After the decision by the State Board of
20 Elections has been served on the parties, the certification of election shall issue unless
21 the appealing party petitions the Superior Court of Wake County for a stay of the
22 certification within 10 days after the date of service.

23 The Superior Court of Wake County shall not issue a stay of certification unless the
24 petitioner shows the court that he intends to appeal the decision of the State Board of
25 Elections and that he is likely to prevail and that the results of the election would be
26 changed in his favor. Mere irregularities in the election which would not change the
27 results of the election shall not be sufficient for the court to issue a stay of certification."

28 Sec. 10. G.S. 163-278.25 reads as rewritten:

29 **"§ 163-278.25. Issuance of declaration of nomination or certificate of election.**

30 No declaration of nomination and no certificate of election shall be granted to any
31 candidate until the candidate or his treasurer has filed the statements referring to the
32 election he is required to file under this Article. Within 24 hours after reaching a
33 decision that a declaration of nomination or certificate of election should not be granted,
34 the Board shall give written notice of that decision, by telegraph or ~~certified~~first-class
35 mail, to the candidate and the candidate's treasurer. Failure to grant certification shall
36 not affect a successful candidate's title to an office to which he has been otherwise duly
37 elected."

38 Sec. 11. G.S. 163-278.34 reads as rewritten:

39 **"§ 163-278.34. Filings; penalty for late filings.**

40 (a) All reports, statements or other documents required by this Article to be filed
41 with the Board shall be filed either by manual delivery to or by ~~certified or registered mail~~
42 first-class mail addressed to the Board. Timely filing shall be complete if postmarked on
43 the day the reports, statements or other documents are to be delivered to the Board. If a
44 report, statement or other document is not filed within the time required by this Article,

1 then the individual, person, media, candidate, political committee, referendum
2 committee or treasurer responsible for filing shall pay to the State Board of Elections a
3 late penalty of twenty dollars (\$20.00) per day for each day the filing is late not to
4 exceed five days. The Board shall immediately notify, or cause to be notified, late filers,
5 from which reports are apparently due, by registered or certified mail, return receipt
6 requested, of the penalties under this section. If the penalty has not been paid to or the
7 report has not been filed with the Board within five days after receipt of the notification,
8 then the Board shall report the late filing or failure to file to the appropriate district
9 attorney who shall indict and prosecute the offender as required in G.S. 163-278.27. No
10 criminal penalty shall be imposed if the penalty required by this section is paid and the
11 delinquent report is filed within five days after notification by the Board."

12 ---CHANGE LOCATION OF FILING REPORTS

13 Sec. 12. Article 22A of Chapter 163 of the General Statutes is amended by
14 adding a new section to read:

15 "**§ 163-278.9B. Location of filing reports.**

16 Notwithstanding any other provision of this Article, reports required by this Article
17 shall be filed as follows:

18 (1) Reports shall be filed with the State Board of Elections for:

- 19 a. Statewide offices;
- 20 b. Statewide referenda;
- 21 c. Political groups covering more than a county (except for
22 municipal elections);
- 23 d. Offices where the territory is more than one county;
- 24 e. Candidate for the General Assembly;
- 25 f. District party groups; and
- 26 g. Any political committee or political action committee involved
27 in any of the same.

28 (2) Reports shall be filed with the appropriate county board of
29 elections for:

- 30 a. County office;
- 31 b. County party groups;
- 32 c. Precinct party groups;
- 33 d. Municipal offices where the county board of elections conducts
34 the election; and
- 35 e. Any political committee or political action committee involved
36 in any of the same.

37 (3) Reports shall be filed with the appropriate municipal board of
38 elections for:

- 39 a. Municipal offices where the municipal board of elections
40 conducts the election; and
- 41 b. Any political committee or political action committee involved
42 in any of the same."

43 ---SANCTIONS FOR FAILURE TO FILE

1 Sec. 13. Article 22A of Chapter 163 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 163-278.25A. No filing for future offices unless reports current.**

4 No board of elections shall accept any notice of candidacy, petition for nomination,
5 or nomination by a political party for any candidate who has failed to file a report
6 required by this Article and such delinquency has existed for at least one year at the
7 time the notice, petition, or nomination is received. This section also applies where the
8 treasurer for a candidate, the political committee of a candidate, or the treasurer for the
9 political committee of a candidate has failed to file such a required report."

10 —NOTIFICATION BY DISTRICT ATTORNEY

11 Sec. 14. G.S. 163-278.27(c) reads as rewritten:

12 "(c) Upon receipt of such a report from the Board, the appropriate district attorney
13 shall prosecute the individual or persons alleged to have violated a section or sections of
14 this Article. The district attorney shall advise the State Board of Elections 90 days after
15 receipt of such a report of the status of the prosecution."

16 Sec. 15. Sections 1 through 5 of this act apply to offenses committed on or
17 after October 1, 1991. Sections 6 and 7 of this act are effective upon ratification.
18 Sections 8 through 11 of this act become effective with respect to notices mailed on or
19 after October 1, 1991. Sections 12 through 14 become effective October 1, 1991. In any
20 case where Sections 6 or 7 of this act extends the reporting or filing requirement of
21 Article 22A of Chapter 163 of the General Statutes to any candidate, political
22 committee, or treasurer not previously covered, any future report or filing concerning
23 any election in 1991 or 1992 shall account for any money on hand on the date of
24 ratification of this act in accordance with rules to be adopted by the State Board of
25 Elections.