

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 23

Short Title: Campaign Standards.

(Public)

Sponsors: Representatives Cansler; Weatherly, Capps, McMahan, McComas, Rayfield, and Shubert.

Referred to: Election Law and Campaign Reform.

February 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A NORTH CAROLINA CAMPAIGN STANDARDS CODE
3 TO BE ENFORCED BY A CAMPAIGN STANDARDS COMMISSION.

4 The General Assembly of North Carolina enacts:

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

7 "ARTICLE 22D.

8 "Campaign Standards.

9 "**§ 163-278.60. Purpose of Article.**

10 The purpose of this Article is to use constitutional means to encourage informative
11 and civil political campaigning in North Carolina elections and to discourage false or
12 misleading attacks.

13 "**§ 163-278.61. North Carolina Campaign Standards Commission established.**

14 (a) Establishment of the Commission. – There is established within the office of
15 the State Board of Elections the North Carolina Campaign Standards Commission.

16 (b) Appointment of Members. – The Commission shall consist of six members to
17 be appointed by the Governor. No more than three members shall be affiliated with the
18 same political party. The Governor shall appoint the members from a list of nominees
19 submitted by the State Chair of each of the two political parties having the highest

1 number of registered affiliates as reflected by the latest registration statistics published by
2 the State Board of Elections. Each party Chair shall submit a list of at least six nominees
3 who are affiliated with that party.

4 (c) Terms of Office. – By October 1, 1997, and as needed thereafter, the Governor
5 shall appoint the six members of the Commission. Of the initial appointees, two shall be
6 appointed for one-year terms, two shall be appointed for two-year terms, and two shall be
7 appointed for three-year terms according to random lot. Thereafter, appointees shall be
8 appointed to serve four-year terms. A person may not serve more than two full terms.
9 The appointed members receive the legislative per diem pursuant to G.S.120-3.1.

10 (d) Election of Chair. – One of the Commission members shall be elected by the
11 members as chair.

12 (e) Vacancies. – A vacancy during an unexpired term shall be filled in the same
13 manner as a full term.

14 (f) Prohibitions. – No member of the Commission shall do or be any of the
15 following:

16 (1) Hold, or be a candidate for, public office;

17 (2) Serve in a political party office or on a political party executive
18 committee or on a committee supporting or opposing a candidate;

19 (3) Be a registered lobbyist;

20 (4) Make or solicit a contribution on behalf of a candidate or political
21 committee; or

22 (5) Be a State employee.

23 (g) Staff Assistance. – The State Board of Elections shall provide staff assistance
24 to the Commission.

25 **"§ 163-278.62. Powers and duties of the Commission.**

26 (a) Adoption of Rules. – The Commission shall adopt any rules necessary for the
27 effective administration of this Article, not inconsistent with the provisions of this
28 Article.

29 (b) Receipt and Processing of Complaints. – The Commission shall prescribe the
30 form of complaints alleging violation of G.S. 163-278.63. A complaint shall be made by
31 affidavit under penalty of perjury. Upon the filing of a complaint with the Commission,
32 the Commission shall process the complaint in accordance with G.S. 163-278.64.

33 (c) Reports to the General Assembly. – The Commission shall report to the
34 General Assembly by the convening of every regular session of the General Assembly.
35 The report shall review the most recent campaign with respect to the purpose of this
36 Article and the Code of Campaign Standards set out in G.S. 163-278.63. The
37 Commission may recommend legislation.

38 **"§ 163-278.63. Code of Campaign Standards.**

39 No person, during the course of any campaign for nomination or election to public
40 office, by means of campaign materials, including sample ballots, an advertisement in
41 radio or television or in a newspaper or periodical, a public speech, press release, or
42 otherwise, shall knowingly and with intent to affect the outcome of the campaign do any
43 of the following:

- 1 (1) Make a false or misleading statement concerning the voting record of a
2 candidate or public official. 'Voting record' under this subdivision
3 means the recorded affirmative or negative on a bill, ordinance,
4 resolution, motion, amendment, or confirmation. A 'misleading
5 statement' under this subdivision includes taking votes or actions
6 significantly out of context or distorting the opponent's record by the
7 use of demonstrably unrepresentative votes or actions.
- 8 (2) Make a false or misleading statement that a candidate or public official
9 has been indicted or convicted of a theft offense, extortion, or other
10 crime involving financial corruption or moral turpitude.
- 11 (3) Make a statement that a candidate has been indicted for any crime or has
12 been the subject of a finding by the Campaign Standards Commission
13 without disclosing the outcome of any legal proceedings resulting from
14 the indictment or finding.
- 15 (4) Make a false or misleading statement that a candidate or official has a
16 record of treatment or confinement for mental disorder.
- 17 (5) Make a false or misleading statement that a candidate or official has
18 been subjected to military discipline for criminal misconduct or
19 dishonorably discharged from the armed services.
- 20 (6) Identify in a false or misleading way the source of a statement, issue
21 statements under the name of another person without attribution, or state
22 in a false or misleading way the endorsement of or opposition to a
23 candidate by a person or publication.
- 24 (7) Use the title of an office not currently held by a candidate in a manner
25 that implies that the candidate does currently hold that office or use the
26 term 're-elect' when the candidate has never been elected at a primary,
27 general, or special election to the office for which that person is a
28 candidate.
- 29 (8) Make a false or misleading statement concerning the formal schooling
30 or training completed or attempted by a candidate; a degree, diploma,
31 certificate, scholarship, grant, award, prize, or honor received, earned,
32 or held by a candidate; or the period of time during which a candidate
33 attended any school, college, community technical school, or institution.
- 34 (9) Make a false or misleading statement concerning the professional,
35 occupational, or vocational licenses held by a candidate, or concerning
36 any position the candidate held for which the candidate received a salary
37 or wages.
- 38 (10) Use an appeal to discrimination based on race, gender, or religious
39 belief.
- 40 (11) Use any still photo, film, or video of a candidate that is designed to
41 make that candidate look personally unpleasant or contorted or that is
42 taken significantly out of context.

43 **"§ 163-278.64. Processing of complaint.**

1 (a) Probable Cause Hearing. – If a complaint is filed alleging a violation of the
2 Code of Campaign Standards in G.S. 163-278.63, a panel of two members of the
3 Commission shall determine whether there is probable cause to refer the matter to the full
4 Commission. The two members of the panel shall not be of the same political party. The
5 panel shall meet within three business days after the attorney makes a determination,
6 unless it finds good cause to postpone the meeting. All members of the panel shall
7 participate if the panel refers a complaint to the full Commission, provided that the
8 panel's meeting may be conducted by conference call. The panel shall make only one of
9 the following two findings:

10 (1) That there is no probable cause to believe that a violation of the Code
11 has occurred. If the panel so finds, it shall dismiss the complaint.

12 (2) That there is probable cause to believe that a violation of the Code has
13 occurred. If the panel so finds, it shall refer the complaint to the full
14 Commission.

15 A finding of probable cause may be entered only by a unanimous vote of the panel.

16 (b) Hearing by Full Commission. – If a panel of the Commission finds pursuant to
17 subsection (a) of this section that there is probable cause that a violation of the Code has
18 taken place, the full Commission shall conduct a hearing within 10 business days after
19 the panel makes its finding. At the hearing, the Commission shall determine whether or
20 not a violation of the Code occurred and shall do one of the following:

21 (1) Enter a finding that a violation of the Code has not been proven by clear
22 and convincing evidence and dismiss the complaint.

23 (2) Enter a finding that a violation of the Code has occurred and issue a
24 letter of reprimand to the individual or entity that it determines is in
25 violation.

26 A finding that a violation has occurred may be entered only by a majority vote of all the
27 members of the Commission.

28 (c) Referral to District Attorney. – If as a result of the evidence it has heard the
29 Commission determines that there is probable cause that a violation of G.S. 163-274(8)
30 has occurred in a matter that is before it, the Commission shall refer the matter to the
31 appropriate district attorney. The referral may be made only upon a positive vote of a
32 majority of all the members of the Commission."

33 Section 2. This act is effective when it becomes law.