

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1575

Short Title: Strengthen Election Enforcement.

(Public)

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Sponsors: Senator Gulley.

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Referred to: Judiciary.

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June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN ENFORCEMENT OF ELECTION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 114-2 reads as rewritten:  
"§ 114-2. Duties.

It shall be the duty of the Attorney General:

- (1) To defend all actions in the appellate division in which the State shall be interested, or a party, and to appear for the State in any other court or tribunal in any cause or matter, civil or criminal, in which the State may be a party or interested.
- (2) To represent all State departments, agencies, institutions, commissions, bureaus or other organized activities of the State which receive support in whole or in part from the State.
- (3) Repealed by Session Laws 1973, c. 702, s. 2.
- (4) To consult with and advise the prosecutors, when requested by them, in all matters pertaining to the duties of their office.
- (5) To give, when required, his opinion upon all questions of law submitted to him by the General Assembly, or by either branch thereof, or by the Governor, Auditor, Treasurer, or any other State officer.

- 1 (6) To pay all moneys received for debts due or penalties to the State  
2 immediately after the receipt thereof into the treasury.
- 3 (7) To compare the warrants drawn on the State treasury with the laws  
4 under which they purport to be drawn.
- 5 (8) Subject to the provisions of G.S. 62-20:  
6 a. To intervene, when he deems it to be advisable in the public  
7 interest, in proceedings before any courts, regulatory officers,  
8 agencies and bodies, both State and federal, in a representative  
9 capacity for and on behalf of the using and consuming public of  
10 this State. He shall also have the authority to institute and  
11 originate proceedings before such courts, officers, agencies or  
12 bodies and shall have authority to appear before agencies on  
13 behalf of the State and its agencies and citizens in all matters  
14 affecting the public interest.
- 15 b. Upon the institution of any proceeding before any State agency  
16 by application, petition or other pleading, formal or informal, the  
17 outcome of which will affect a substantial number of residents of  
18 North Carolina, such agency or agencies shall furnish the  
19 Attorney General with copies of all such applications, petitions  
20 and pleadings so filed, and, when the Attorney General deems it  
21 advisable in the public interest to intervene in such proceedings,  
22 he is authorized to file responsive pleadings and to appear before  
23 such agency either in a representative capacity in behalf of the  
24 using and consuming public of this State or in behalf of the State  
25 or any of its agencies.
- 26 (9) To make investigations, with the assistance of the State Bureau of  
27 Investigation and to the extent the Attorney General deems necessary,  
28 with respect to statements filed under the provisions of Article 22A of  
29 Chapter 163 of the General Statutes and with respect to alleged failures  
30 to file any statement required under the provisions of that Article and,  
31 upon complaint under oath by any registered voter, with respect to  
32 alleged violations of any part of that Article.
- 33 (10) After investigation, to make a recommendation to the appropriate  
34 district attorney under G.S. 163-278.27 concerning prosecution of an  
35 individual or person alleged to have violated a section or sections of  
36 Article 22A of Chapter 163 of the General Statutes. In making the  
37 recommendation, the Attorney General may be advised by a panel  
38 consisting of attorneys on staff and others.
- 39 (11) To employ a special prosecution team specializing in campaign finance  
40 law. The team shall be available to assist district attorneys in fulfilling  
41 their duties to prosecute violations of Article 22A of Chapter 163 of the  
42 General Statutes."

43 Section 2. G.S. 163-278.22(7) and G.S. 163-278.22(8) are repealed.

1 Section 3. G.S. 163-278.13(f) reads as rewritten:

2 "(f) Any individual, candidate, political committee, or referendum committee ~~who~~  
3 that violates the provisions of this section is guilty of a Class 2 misdemeanor. Any  
4 individual, candidate, political committee, or referendum committee that violates the  
5 provisions of this section by making, soliciting, or accepting contributions in excess of  
6 twice the limit set out in subsection (a) or (b) of this section is guilty of a Class I felony.  
7 Notwithstanding the provisions of G.S. 15A-1340.23, any individual, candidate, political  
8 committee, or referendum committee that violates the provisions of this section may be  
9 fined twice the amount of the illegal contribution."

10 Section 4. G.S. 163-278.27 reads as rewritten:

11 "**§ 163-278.27. Penalty for violations; duty to report and prosecute.**

12 (a) ~~Any~~ Except as provided in G.S. 163-278.13(f), any individual, candidate,  
13 political committee, referendum committee, treasurer, person or media who violates the  
14 provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-  
15 278.12, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.40A, 163-278.40B,  
16 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor.

17 (b) Whenever the Board has knowledge of or has reason to believe there has been  
18 a violation of any section of this Article, it shall report that fact, together with  
19 accompanying details, to the Attorney General and to the following prosecuting  
20 authorities:

21 (1) In the case of a candidate for nomination or election to the State Senate  
22 or State House of Representatives: report to the district attorney of the  
23 prosecutorial district in which the candidate for nomination or election  
24 resides;

25 (2) In the case of a candidate for nomination or election to the office of  
26 Governor, Lieutenant Governor, Secretary of State, State Auditor, State  
27 Treasurer, State Superintendent of Public Instruction, State Attorney  
28 General, State Commissioner of Agriculture, State Commissioner of  
29 Labor, State Commissioner of Insurance, and all other State elective  
30 offices, Justice of the Supreme Court, Judge of the Court of Appeals,  
31 judge of a superior court, judge of a district court, and district attorney  
32 of the superior court: report to the district attorney of the prosecutorial  
33 district in which Wake County is located;

34 (3) In the case of an individual other than a candidate, including, without  
35 limitation, violations by members of political committees, referendum  
36 committees or treasurers: report to the district attorney of the  
37 prosecutorial district in which the individual resides; and

38 (4) In the case of a person or any group of individuals: report to the district  
39 attorney or district attorneys [of] the prosecutorial district or districts in  
40 which any of the officers, directors, agents, employees or members of  
41 the person or group reside.

42 (c) Upon receipt of such a report from the Board, the Attorney General shall  
43 investigate the matter and make a recommendation to the appropriate district attorney

1 concerning prosecution. The appropriate district attorney shall have the responsibility to  
2 prosecute the individual or persons alleged to have violated a section or sections of this  
3 Article. In fulfilling that responsibility, the appropriate district attorney may utilize the  
4 assistance of the special prosecution team of the Attorney General as provided in G.S.  
5 114-2(11)."

6 Section 5. Article 22A of Chapter 163 of the General Statutes is amended by  
7 adding a new section to read:

8 **"§ 163-278.27A. Five-year statute of limitations.**

9 Prosecution for a misdemeanor brought under this Article shall be barred after five  
10 years have expired from the date the violation occurred."

11 Section 6. G.S. 15-1 reads as rewritten:

12 **"§ 15-1. Statute of limitations for misdemeanors.**

13 The crimes of deceit and malicious mischief, and the crime of petit larceny where the  
14 value of the property does not exceed five dollars (\$5.00), and all misdemeanors except  
15 malicious ~~misdemeanors~~, misdemeanors and prosecutions under Article 22A of Chapter  
16 163 of the General Statutes, shall be presented or found by the grand jury within two  
17 years after the commission of the same, and not afterwards: Provided, that if any  
18 indictment found within that time shall be defective, so that no judgment can be given  
19 thereon, another prosecution may be instituted for the same offense, within one year after  
20 the first shall have been abandoned by the State."

21 Section 7. There is appropriated from the General Fund to the North Carolina  
22 Department of Justice the sum of one hundred twenty-five thousand dollars (\$125,000)  
23 for the 1998-99 fiscal year for the purpose of implementing the provisions of this act.

24 Section 8. Section 7 of this act becomes effective July 1, 1998. The remainder  
25 of this act becomes effective December 1, 1998, and applies to acts committed on or after  
26 that date.