

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 921\*

Short Title: Campaign Finance Changes.

(Public)

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Sponsors: Representatives Baddour, Alexander, Bonner; Barefoot, Goodwin, Hurley, Insko, Luebke, and Wainwright.

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Referred to: Election Law and Campaign Finance Reform.

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April 5, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES IN THE CAMPAIGN FINANCE LAWS.  
3 The General Assembly of North Carolina enacts:  
4 – REDEFINING "POLITICAL COMMITTEE," PROHIBITING CIRCUMVENTION OF  
5 CONTRIBUTION LIMITS BY PROLIFERATION OF COMMITTEES, AND  
6 RELATED CHANGES.

7 Section 1.(a) G.S. 163-278.6(14) reads as rewritten:

8 "(14) The term 'political committee' means a combination of two or more  
9 individuals, or any person, committee, association, ~~or~~ organization, ~~the~~  
10 ~~primary or incidental purpose of which is to support or oppose any candidate~~  
11 ~~or political party or to influence or attempt to influence the result of an~~  
12 ~~election or which accepts contributions or makes or other entity that makes,~~  
13 or accepts money to make, contributions or expenditures and has one or  
14 more of the following characteristics:

15 a. Is controlled by a candidate;

16 b. Is a political party or executive committee of a political party or  
17 is controlled by a political party or executive committee of a  
18 political party;

- 1           c.       Is created by a corporation, business entity, insurance company,  
2               labor union, or professional association pursuant to G.S. 163-  
3               278.19(b); or  
4           d.       Has as a significant purpose expenditures for the purpose of  
5               influencing or attempting to influence to support or oppose the  
6               nomination or election of any candidate at any election, or which  
7               one or more clearly identified candidates.

8               Supporting or opposing the election of clearly identified candidates  
9               includes supporting or opposing the candidates of a clearly identified  
10              political party.

11              An entity is presumed to have as a significant purpose to support or  
12              oppose the nomination or election of one or more clearly identified  
13              candidates if it contributes or expends or both contributes and expends  
14              during an election cycle more than three thousand dollars (\$3,000).  
15              Contributions to referendum committees and expenditures to support or  
16              oppose ballot issues shall not be facts considered to give rise to the  
17              presumption.

18              If the entity qualifies as a 'political committee' under sub-subdivision  
19              a., b., c., or d. of this subdivision, it continues to be a political  
20              committee if it receives contributions to repay loans or cover a deficit, or  
21              which makes expenditures to satisfy obligations of an election already held.  
22              The term includes, without limitation, any political party's State, county or  
23              district executive committee, or maintains assets or liabilities. A political  
24              committee ceases to exist when it winds up its operations, disposes of  
25              its assets, and files its final report. Entities that are financed, maintained,  
26              or controlled by the same entity, as determined by the State Board of  
27              Elections, shall be considered as one entity for the purpose of  
28              determining whether they are a political committee."

29              Section 1.(b) G.S. 163-278.6 is amended by adding a new subdivision to read:

30              "(8a) The term 'election cycle' means the period of time from January 1 after  
31              an election for an office through December 31 after the election for the  
32              next term of the same office. Where the term is applied in the context of  
33              several offices with different terms, 'election cycle' means the period  
34              from January 1 of an odd-numbered year through December 31 of the  
35              next even-numbered year."

36              Section 1.(c) G.S. 163-278.13 is amended by adding a new subsection to read:

37              "(e2) Political committees and candidates' campaigns that are financed, maintained,  
38              or controlled by the same entity, as determined by the State Board of Elections, shall be  
39              considered as one political committee for the purposes of applying the contribution limits  
40              of this section. No individual or other entity shall contribute funds to a candidate or  
41              political committee for the purpose of circumventing the contribution limits of this  
42              section."

43              Section 1.(d)     G.S. 163-278.16(a) reads as rewritten:

1       "(a) Except as provided in G.S. 163-278.6(14) and G.S. 163-278.12, no  
2 contribution may be received or expenditure made by or on behalf of a candidate,  
3 political committee, or referendum committee:

4           (1) Until the candidate, political committee, or referendum committee  
5 appoints a treasurer and certifies the name and address of the treasurer  
6 to the Board; and

7           (2) Unless the contribution is received or the expenditure made by or  
8 through the treasurer of the candidate, political committee, or  
9 referendum committee."

10 – REDEFINING "CONTRIBUTION" AND "EXPENDITURE"; DEFINING  
11 "INDEPENDENT EXPENDITURE"; AND CHANGING THE SPECIAL REPORTING  
12 REQUIREMENT FOR CONTRIBUTIONS AND INDEPENDENT EXPENDITURES.

13       Section 2.(a) G.S. 163-278.6(6) reads as rewritten:

14           "(6) The terms 'contribute' or 'contribution' mean any advance, conveyance,  
15 deposit, distribution, transfer of funds, loan, payment, gift, pledge or  
16 subscription of money or anything of value whatsoever, to a candidate,  
17 political committee, political party, or referendum committee, from any  
18 person or individual, whether or not made in an election year, and any  
19 contract, agreement, promise or other obligation, whether or not legally  
20 enforceable, to make a contribution, ~~in support of or in opposition to any~~  
21 ~~candidate, political committee, referendum committee, or political party.~~  
22 contribution. These terms include, without limitation, such contributions  
23 as labor or personal services, postage, publication of campaign literature  
24 or materials, in-kind transfers, loans or use of any supplies, office  
25 machinery, vehicles, aircraft, office space, or similar or related services,  
26 goods, or personal or real property. These terms also include, without  
27 limitation, the proceeds of sale of services, campaign literature and  
28 materials, wearing apparel, tickets or admission prices to campaign  
29 events such as rallies or dinners, and the proceeds of sale of any  
30 campaign-related services or goods ~~notwithstanding goods.~~  
31 Notwithstanding the foregoing meanings of 'contribution,' the word  
32 shall not be construed to include services provided without  
33 compensation by individuals volunteering a portion or all of their time  
34 on behalf of a candidate, political committee, or referendum committee.  
35 The term 'contribution' does not include an 'independent expenditure.'"

36       Section 2.(b) G.S. 163-278.6(9) reads as rewritten:

37           "(9) The terms 'expend' or 'expenditure' mean any purchase, advance,  
38 conveyance, deposit, distribution, transfer of funds, loan, payment, gift,  
39 pledge or subscription of money or anything of value whatsoever, ~~from~~  
40 ~~any person or individual,~~ whether or not made in an election year, and any  
41 contract, agreement, promise or other obligation, whether or not legally  
42 enforceable, to make an expenditure, ~~in support of or in opposition to to~~  
43 support or oppose the nomination, election, or passage of any candidate,

1 ~~political committee, referendum committee, or political party. one or more~~  
2 ~~clearly identified candidates, or ballot measure. Supporting or opposing~~  
3 ~~the election of clearly identified candidates includes supporting or~~  
4 ~~opposing the candidates of a clearly identified political party. The term~~  
5 ~~'expenditure' also includes any payment or other transfer made by a~~  
6 ~~candidate, political committee, or referendum committee. The special~~  
7 ~~definition of 'expenditure' in G.S. 163-278.12A applies only in that~~  
8 ~~section."~~

9 Section 2.(c) G.S. 163-278.6 is amended by adding a new subdivision to read:

10 "(9a) The term 'independently expend' or 'independent expenditure' means an  
11 expenditure to support or oppose the nomination or election of one or  
12 more clearly identified candidates that is made without consultation or  
13 coordination with a candidate or agent of a candidate whose nomination  
14 or election the expenditure supports or whose opponent's nomination or  
15 election the expenditure opposes. Supporting or opposing the election of  
16 clearly identified candidates includes supporting or opposing the  
17 candidates of a clearly identified political party. A contribution is not an  
18 independent expenditure. As applied to referenda, the term 'independent  
19 expenditure' applies if consultation or coordination does not take place  
20 with a referendum committee that supports a ballot measure the  
21 expenditure supports, or a referendum committee that opposes the ballot  
22 measure the expenditure opposes."

23 Section 2.(d) G.S. 163-278.12 reads as rewritten:

24 **~~§ 163-278.12. Contributions and expenditures by an individual other than a candidate.~~**  
25 **Special reporting of contributions and independent expenditures.**

26 (a) Subject to G.S. 163-278.16(f) and 163-278.14, it shall be permissible for an  
27 individual other than a candidate to make ~~contributions or expenditures in support of, or~~  
28 ~~in opposition to, any candidate, political committee, or referendum committee other than~~  
29 ~~by contribution to a candidate, political committee, or referendum committee.~~  
30 independent expenditures. In the event an individual or entity permitted to make  
31 independent expenditures but not otherwise required to report them makes  
32 or expenditures, other than by contribution to a candidate, political committee, or  
33 referendum committee, independent expenditures in excess of one hundred dollars  
34 (\$100.00), then, within 10 days after making such a contribution or an independent  
35 expenditure, he that individual or entity shall file a statement of such  
36 independent expenditure with the Board in accordance with the terms and conditions of  
37 G.S. 163-278.11. appropriate board of elections using forms and timetables prescribed by  
38 the State Board of Elections.

39 (b) Any entity other than an individual that is permitted to make contributions but  
40 is not otherwise required to report them shall report each contribution in excess of one  
41 hundred dollars (\$100.00) with the appropriate board of elections using forms and  
42 timetables prescribed by the State Board of Elections.

1 (c) In prescribing the forms in subsections (a) and (b) of this section, the State  
2 Board of Elections shall require the identification of each entity making a donation of  
3 more than one hundred dollars (\$100.00) to the entity filing the report if the donation was  
4 made for the purpose of furthering the reported independent expenditure or contribution."

5 – REDEFINING THE TERM "CANDIDATE".

6 Section 3. G.S. 163-278.6(4) reads as rewritten:

7 "(4) The term 'candidate' means any individual who, with respect to a public  
8 office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a  
9 petition requesting to be a candidate, or has been certified as a nominee  
10 of a political party for a vacancy, ~~or~~ has otherwise qualified as a  
11 candidate in a manner authorized by ~~law~~ law, or has received funds or  
12 made payments or has given the consent for anyone else to receive  
13 funds or transfer anything of value for the purpose of exploring or  
14 bringing about that individual's nomination or election to office.  
15 Transferring anything of value includes incurring an obligation to  
16 transfer anything of value. Status as a candidate for the purpose of this  
17 Article continues if the individual is receiving contributions to repay  
18 loans or cover a deficit or is making expenditures to satisfy obligations  
19 from an election already held."

20 – REMOVING THE TERM "POLITICAL PURPOSE".

21 Section 4.(a) G.S. 163-278.6(16) is repealed.

22 Section 4.(b) G.S. 163-278.16(g) reads as rewritten:

23 "(g) All printed matter ~~for a political purpose~~ from a political party or political  
24 committee which ~~identifies a candidate that party or committee is opposing~~ opposes the  
25 nomination or election of a clearly identified candidate shall indicate in type no smaller  
26 than 12 point the name of the political party or political committee and the name of the  
27 candidate that is intended to benefit from the printed matter."

28 Section 4.(c) G.S. 163-278.36 reads as rewritten:

29 **"§ 163-278.36. Elected officials to report funds.**

30 All ~~contributions~~ donations to, and all ~~expenditures~~ payments from any 'booster fund,'  
31 'support fund,' 'unofficial office account' or any other similar source ~~which are made to, in~~  
32 ~~behalf of,~~ or used in support of ~~any person holding an individual's candidacy for elective~~  
33 office, or in support of an individual's duties and activities while in an elective office for  
34 ~~any political purpose whatsoever during his term of office~~ shall be deemed contributions and  
35 expenditures as defined in this Article and shall be reported as contributions and  
36 expenditures as required by this Article. The ~~annual report~~ reports due in January and July  
37 of each year shall show the balance of each separate fund or account maintained on  
38 behalf of the elected office holder."

39 Section 4.(d) G.S. 163-278.19(a) reads as rewritten:

40 "(a) Except as provided in ~~G.S. 163-278.19(b)~~, subsections (b), (d), (e), and (f) of  
41 this section it shall be unlawful for any corporation, business entity, labor union,  
42 professional association or insurance company directly or indirectly:

1           (1) To make any contribution to a candidate or political committee or  
 2 ~~expenditure~~—(except a loan of money by a national or State bank or  
 3 federal or State savings and loan association made in accordance with  
 4 the applicable banking or savings and loan association laws and  
 5 regulations and in the ordinary course of business) ~~in aid or in behalf of or~~  
 6 ~~in opposition to any candidate or political committee in any election or for any~~  
 7 ~~political purpose whatsoever; or to make any expenditure to support or~~  
 8 oppose the nomination or election of a clearly identified candidate;

9           (2) To pay or use or offer, consent or agree to pay or use any of its money  
 10 or property ~~for or in aid of or in opposition to any candidate or political~~  
 11 ~~committee or for or in aid of any person, organization or association~~  
 12 ~~organized or maintained for political purposes, or for or in aid of or in~~  
 13 ~~opposition to any candidate or political committee or for any political~~  
 14 ~~purpose whatsoever; and for any contribution to a candidate or political~~  
 15 committee or for any expenditure to support or oppose the nomination  
 16 or election of a clearly identified candidate; or

17           (3) To ~~reimburse~~—compensate, reimburse, or indemnify any person or  
 18 individual for money or property so used or for any contribution or  
 19 expenditure so made;

20 and it shall be unlawful for any officer, director, stockholder, attorney, agent or member  
 21 of any corporation, business entity, labor union, professional association or insurance  
 22 company to aid, abet, advise or consent to any such contribution or expenditure, or for  
 23 any person or individual to solicit or knowingly receive any such contribution or  
 24 expenditure. Supporting or opposing the election of clearly identified candidates includes  
 25 supporting or opposing the candidates of a clearly identified political party. Any officer,  
 26 director, stockholder, attorney, agent or member of any corporation, business entity, labor  
 27 union, professional association or insurance company aiding or abetting in any  
 28 contribution or expenditure made in violation of this section shall be guilty of a Class 2  
 29 misdemeanor, and shall in addition be liable to such corporation, business entity, labor  
 30 union, professional association or insurance company for the amount of such contribution  
 31 or expenditure, and the same may be recovered of him upon suit by any stockholder or  
 32 member thereof."

33 – PERMITTING CONTRIBUTIONS AND INDEPENDENT EXPENDITURES BY  
 34 NONBUSINESS CORPORATIONS; REMOVING REDUNDANT STATUTES  
 35 CONCERNING CORPORATE AND INSURANCE COMPANY CONTRIBUTIONS;  
 36 AND MAKING CONFORMING CHANGES.

37 Section 5.(a) G.S. 163-278.19 is amended by adding a new subsection to read:

38 "(f) This section does not prohibit a contribution or independent expenditure by an  
 39 entity that:

40           (1) Was formed with an express purpose of promoting political ideas and  
 41 not to generate business income;

42           (2) Does not have shareholders or other persons which have an economic  
 43 interest in its assets and earnings;

1           (3) Is exempt from federal income taxation; and

2           (4) Was not established by a business corporation, by an insurance  
3           company, by a business entity, including, but not limited to, those  
4           chartered under Chapter 55, Chapter 55A, Chapter 55B, or Chapter 58  
5           of the General Statutes, by a professional association, or by a labor  
6           union and does not receive more than ten percent (10%) of its total  
7           revenues in a calendar year from such entities."

8           Section 5.(b) G.S. 163-269 and G.S. 163-270 are repealed.

9           Section 5.(c) G.S. 163-278.13 reads as rewritten:

10       **"§ 163-278.13. Limitation on contributions.**

11           (a) No ~~individual or political committee~~ individual, political committee, or other  
12           entity shall contribute to any candidate or other political committee any money or make  
13           any other contribution in any election in excess of four thousand dollars (\$4,000) for that  
14           election.

15           (b) No candidate or political committee shall accept or solicit any contribution  
16           from any ~~individual or other political committee~~ individual, other political committee, or  
17           other entity of any money or any other contribution in any election in excess of four  
18           thousand dollars (\$4,000) for that election.

19           (c) Notwithstanding the provisions of subsections (a) and (b) of this section, it  
20           shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to  
21           make a contribution to the candidate or to the candidate's treasurer of any amount of  
22           money or to make any other contribution in any election in excess of four thousand  
23           dollars (\$4,000) for that election.

24           (d) For the purposes of this section, the term 'an election' means any primary,  
25           second primary, or general election in which the candidate or political committee may be  
26           involved, without regard to whether the candidate is opposed or unopposed in the  
27           election, except that where a candidate is not on the ballot in a second primary, that  
28           second primary is not 'an election' with respect to that candidate.

29           (e) This section shall not apply to any State, district or county executive  
30           committee of any political party. For the purposes of this section only, the term 'political  
31           party' means only those political parties officially recognized under G.S. 163-96.

32           (e1) No referendum committee which received any contribution from a corporation,  
33           labor union, insurance company, business entity, or professional association may make  
34           any contribution to another referendum committee, to a candidate or to a political  
35           committee.

36           (f) Any individual, candidate, political committee, ~~or referendum committee who~~  
37           committee, or other entity that violates the provisions of this section is guilty of a Class 2  
38           misdemeanor."

39           Section 5.(d) G.S. 163-278.13B(a)(1) reads as rewritten:

40           "(1) 'Limited contributor' means a lobbyist registered pursuant to Article 9A  
41           of Chapter 120 of the General Statutes, that lobbyist's agent, that  
42           lobbyist's principal as defined in G.S. 120-47.1(7), or a political  
43           committee that employs or contracts with or whose parent entity

1 employs or contracts with a lobbyist registered pursuant to Article 9A of  
2 Chapter 120 of the General Statutes."

3 Section 5.(e) G.S. 163-278.15 reads as rewritten:

4 **"§ 163-278.15. No acceptance of contributions made by corporations, foreign and**  
5 **domestic.**

6 No candidate, political committee, political party, or treasurer shall accept any  
7 contribution made by any corporation, foreign or domestic, regardless of whether such  
8 corporation does business in the State of North Carolina. This section does not apply  
9 with regard to entities permitted to make contributions by G.S. 163-278.19(f)."

10 – CLARIFYING WHAT IS COVERED BY ARTICLE 22A AND WHAT IS  
11 ACTIVITY THAT CONSTITUTES INDIRECT CONTRIBUTIONS BY  
12 CORPORATIONS, ETC.

13 Section 6.(a) Part 1 of Article 22A of Chapter 163 of the General Statutes is  
14 amended by adding a new section to read:

15 **"§ 163-278.5. Scope of Article; severability.**

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

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

23 Section 6.(b) G.S. 163-278.19 is amended by adding a new subsection to read:

24 "(a1) A transfer of funds shall be deemed to have been a contribution or expenditure  
25 made indirectly if it is made to any committee or political party account, whether inside  
26 or outside this State, with the intent or purpose of being exchanged in whole or in part for  
27 any other funds to be contributed or expended in an election for North Carolina office or  
28 to offset any other funds contributed or expended in an election for North Carolina  
29 office."

30 Section 7. This act is effective when it becomes law.