

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH10273-RR-54 (04/13)

Short Title: Electioneering Communications. (Public)

Sponsors: Representatives Harrison and Fisher (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE PROHIBITION ON USE OF CORPORATE AND
UNION MONEY IN ELECTIONEERING COMMUNICATIONS AND RELATED
REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

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

"§ 163-278.80. 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 aired after an entity has made disbursements 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 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.

(2) The term "electioneering communication" means any broadcast, cable, or satellite communication that has all the following characteristics:

a. Refers to a clearly identified candidate for a statewide ~~office or office~~, for the General Assembly, or for any other State or local office for which the territory for the electorate has a total population of more than 10,000 as of the most recent federal decennial census:

b. Is made within one of the following time periods:

- 1 1. 60 days before a general or special election for the office
- 2 sought by the candidate, or
- 3 2. 30 days before a primary election or a convention of a
- 4 political party that has authority to nominate a candidate
- 5 for the office sought by the candidate.
- 6 c. Is targeted to the relevant electorate.
- 7 (3) The term "electioneering communication" does not include any of the
- 8 following:
- 9 a. A communication appearing in a news story, commentary, or
- 10 editorial distributed through the facilities of any broadcasting
- 11 station, unless those facilities are owned or controlled by any
- 12 political party, political committee, or candidate.
- 13 b. A communication that constitutes an expenditure or
- 14 independent expenditure under Article 22A of this Chapter.
- 15 c. A communication that constitutes a candidate debate or forum
- 16 conducted pursuant to rules adopted by the Board or that solely
- 17 promotes that debate or forum and is made by or on behalf of
- 18 the person sponsoring the debate or forum.
- 19 d. A communication made while the General Assembly is in
- 20 session which, incidental to advocacy for or against a specific
- 21 piece of legislation pending before the General Assembly, urges
- 22 the audience to communicate with a member or members of the
- 23 General Assembly concerning that piece of legislation.
- 24 (4) The term "prohibited source" means any corporation, insurance
- 25 company, labor union, or professional association. The term
- 26 "prohibited source" does not include an entity that meets all the criteria
- 27 set forth in G.S. 163-278.19(f).
- 28 (5) The term "targeted to the relevant electorate" means a communication
- 29 which refers to a clearly identified candidate for ~~statewide an office or~~
- 30 ~~the General Assembly subject to this Article~~ and which can be
- 31 received by 50,000 or more individuals in the State in the case of a
- 32 candidacy for statewide office and 7,500 or more individuals in the
- 33 district in the case of a candidacy for ~~General Assembly any other~~
- 34 office subject to this Article.
- 35 (6) The term "501(c)(4) organization" means either of the following:
- 36 a. An organization described in section 501(c)(4) of the Internal
- 37 Revenue Code of 1986 and exempt from taxation under section
- 38 501(a) of that Code.
- 39 b. An organization that has submitted an application to the Internal
- 40 Revenue Service for determination of its status as an
- 41 organization described in sub-subdivision a. of this subdivision.
- 42 (7) Except as otherwise provided in this Article, the definitions in Article
- 43 22A of this Chapter apply in this Article."

SECTION 2. G.S. 163-278.90 reads as rewritten:.

1 **"§ 163-278.90. Definitions.**

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

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

4 a. The first date during any calendar year when an electioneering
5 communication is transmitted after an entity has made
6 disbursements for the direct costs of producing or transmitting
7 electioneering communications aggregating in excess of ten
8 thousand dollars (\$10,000).

9 b. Any other date during that calendar year by which an entity has
10 made disbursements for the direct costs of producing or
11 transmitting electioneering communications aggregating in
12 excess of ten thousand dollars (\$10,000) since the most recent
13 disclosure date for that calendar year.

14 (2) The term "electioneering communication" means any mass mailing or
15 telephone bank that has all the following characteristics:

16 a. Refers to a clearly identified candidate for a statewide ~~office or~~
17 office, for the General Assembly-Assembly, or for any other
18 State or local office for which the territory for the electorate has
19 a total population of more than 10,000 as of the most recent
20 federal decennial census:

21 b. Is made within one of the following time periods:

22 1. 60 days before a general or special election for the office
23 sought by the candidate, or

24 2. 30 days before a primary election or a convention of a
25 political party that has authority to nominate a candidate
26 for the office sought by the candidate.

27 c. Is targeted to the relevant electorate.

28 (3) The term "electioneering communication" does not include any of the
29 following:

30 a. A communication appearing in a news story, commentary, or
31 editorial distributed through any newspaper or periodical,
32 unless that publication is owned or controlled by any political
33 party, political committee, or candidate.

34 b. A communication that constitutes an expenditure or
35 independent expenditure under Article 22A of this Chapter.

36 c. A communication that constitutes a candidate debate or forum
37 conducted pursuant to rules adopted by the Board or that solely
38 promotes that debate or forum and is made by or on behalf of
39 the person sponsoring the debate or forum.

40 d. A communication that is distributed by a corporation solely to
41 its shareholders or employees, or by a labor union or
42 professional association solely to its members.

43 e. A communication made while the General Assembly is in
44 session which, incidental to advocacy for or against a specific

- 1 piece of legislation pending before the General Assembly, urges
2 the audience to communicate with a member or members of the
3 General Assembly concerning that piece of legislation.
- 4 (4) The term "mass mailing" means any mailing by United States mail or
5 facsimile that is targeted to the relevant electorate and is made by a
6 commercial vendor or made from any commercial list. Part 1A of
7 Article 22A of this Chapter has its own internal definition of "mass
8 mailing" under the definition of "print media," and that definition does
9 not apply in this Article.
- 10 (5) The term "prohibited source" means any corporation, insurance
11 company, labor union, or professional association. The term
12 "prohibited source" does not include an entity that meets all the criteria
13 set forth in G.S. 163-278.19(f).
- 14 (6) The term "targeted to the relevant electorate" means a communication
15 which refers to a clearly identified candidate for ~~statewide office or the~~
16 ~~General Assembly and any office subject to this Article~~ which:
17 a. If transmitted by mail or facsimile in connection with a clearly
18 identified candidate for statewide office, is transmitted to
19 50,000 or more addresses in the State, by the transmission of
20 identical or substantially similar matter within any 30-day
21 period, or, in connection with a clearly identified candidate for
22 ~~the General Assembly, any other office subject to this Article,~~ is
23 transmitted to 5,000 or more addresses in the district, by the
24 transmission of identical or substantially identical matter within
25 any 30-day period.
- 26 b. If transmitted by telephone, in connection with a clearly
27 identified candidate for statewide office, more than 50,000
28 telephone calls in the State of an identical or substantially
29 similar nature within any 30-day period, or in the case of a
30 clearly identified candidate for ~~the General Assembly, any other~~
31 ~~office subject to this Article,~~ more than 5,000 calls in the
32 district of an identical or substantially similar nature within any
33 30-day period.
- 34 (7) The term "telephone bank" means telephone calls that are targeted to
35 the relevant electorate, except when those telephone calls are made by
36 volunteer workers, whether or not the design of the telephone bank
37 system, development of calling instructions, or training of volunteers
38 was done by paid professionals.
- 39 (8) The term "501(c)(4) organization" means either of the following:
40 a. An organization described in section 501(c)(4) of the Internal
41 Revenue Code of 1986 and exempt from taxation under section
42 501(a) of that Code.

1 b. An organization that has submitted an application to the Internal
2 Revenue Service for determination of its status as an
3 organization described in sub-subdivision a. of this subdivision.

4 (9) Except as otherwise provided in this Article, the definitions in Article
5 22A of this Chapter apply in this Article."

6 **SECTION 3.** This act becomes effective January 1, 2006, and applies to all
7 primaries and elections held on or after that date.