

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 1106

Short Title: Campaign Finance Amendments.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Judiciary I.

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE TRAINING FOR ALL CAMPAIGN TREASURERS; TO
2 REQUIRE AN AUDIT TRAIL FOR ANY CAMPAIGN CONTRIBUTION MADE
3 BY MONEY ORDER; TO ALLOW CAMPAIGN EXPENDITURES TO BE
4 MADE BY ANY VERIFIABLE FORM OF PAYMENT; TO SET A
5 THREE-YEAR TIME LIMIT BEFORE ANY UNPAID DEBT IN A CAMPAIGN
6 IS DEEMED TO BE A CONTRIBUTION; TO INCLUDE VACANCY
7 ELECTIONS AND NONPARTISAN RUNOFFS IN THE DEFINITION OF
8 "ELECTION" FOR PURPOSES OF CONTRIBUTION LIMITS; TO CLARIFY
9 THE MEANING OF "QUALIFIED TO RECEIVE VOTES ON THE BALLOT AS
10 A CANDIDATE FOR THE OFFICE" AS A PRECONDITION FOR
11 CERTIFICATION UNDER THE PUBLIC CAMPAIGN FINANCING FUND; TO
12 AUTHORIZE CANDIDATES UNDER THAT FUND TO SPEND MONEY
13 RAISED PRIOR TO THE FILING OF NOTICE OF INTENT TO PARTICIPATE;
14 TO PROVIDE FOR EARLIER DISTRIBUTION OF THE JUDICIAL VOTER
15 GUIDE; TO LIMIT THE USE OF CREDIT CARDS FOR PAYMENT OF
16 EXPENDITURES IN PUBLICLY FUNDED JUDICIAL CAMPAIGNS; TO
17 APPLY THE SCOPE AND ADVISORY OPINION SECTIONS OF ARTICLE 22A
18 OF CHAPTER 163 OF THE GENERAL STATUTES TO ARTICLES 22B, 22D,
19 22E, AND 22F AS WELL; AND TO EXPRESSLY REQUIRE THAT
20 ORGANIZATIONS EXPENDING FOR "ELECTIONEERING
21 COMMUNICATIONS" MUST DO SO OUT OF A SEGREGATED ACCOUNT
22 THAT CONTAINS NO MONEY FROM PROHIBITED SOURCES AND TO
23 EXPRESSLY PROVIDE FOR DETAILED REPORTING FROM ANY SUCH
24 ACCOUNT.
25

26 The General Assembly of North Carolina enacts:

27 **SECTION 1.** G.S. 163-278.7(e) reads as rewritten:

28 "(e) Every treasurer of a political committee or referendum committee shall
29 receive, prior to every election in which the political committee or referendum

1 committee is involved, training from the State Board of Elections as to the duties of the
2 office, including the requirements of G.S. 163-278.13(e1), provided that the treasurer
3 may designate an employee or volunteer of the committee to receive the training."

4 **SECTION 2.** G.S. 163-278.14(b) reads as rewritten:

5 "(b) No entity shall give, and no candidate, committee or treasurer shall accept,
6 any monetary contribution in excess of one hundred dollars (\$100.00) unless such
7 contribution be in the form of a check, draft, money order, credit card charge, debit, or
8 other noncash method that can be subject to written verification. The State Board of
9 Elections may prescribe guidelines as to the reporting and verification of any method of
10 contribution payment allowed under this Article. For contributions by money order, the
11 State Board shall prescribe methods to insure an audit trail for every contribution so that
12 the identity of the contributor can be determined. For a contribution made by credit
13 card, the credit card account number of a contributor is not a public record."

14 **SECTION 3.** G.S. 163-278.8(e) reads as rewritten:

15 "(e) All expenditures for media expenses shall be made by ~~check only~~ a verifiable
16 form of payment. The State Board of Elections shall prescribe methods to insure an
17 audit trail for every contribution so that the identity of each payee can be determined.
18 All media expenditures in any amount shall be accounted for and reported individually
19 and separately."

20 **SECTION 4.** G.S. 163-278.8(f) reads as rewritten:

21 "(f) All expenditures for nonmedia expenses (except postage) of more than fifty
22 dollars (\$50.00) shall be made by ~~check only~~ a verifiable form of payment. The State
23 Board of Elections shall prescribe methods to insure an audit trail for every contribution
24 so that the identity of each payee can be determined. All expenditures for nonmedia
25 expenses of fifty dollars (\$50.00) or less may be made by check or by cash payment. All
26 nonmedia expenditures of more than fifty dollars (\$50.00) shall be accounted for and
27 reported individually and separately, but expenditures of fifty dollars (\$50.00) or less
28 may be accounted for and reported in an aggregated amount, but in that case the
29 treasurer shall account for and report that he made expenditures of fifty dollars (\$50.00)
30 or less each, the amounts, dates, and the purposes for which made. In the case of a
31 nonmedia expenditure required to be accounted for individually and separately by this
32 subsection, if the expenditure was to an individual, the report shall list the name and
33 address of the individual."

34 **SECTION 5.** G.S. 163-278.6(6) reads as rewritten:

35 "(6) The terms "contribute" or "contribution" mean any advance,
36 conveyance, deposit, distribution, transfer of funds, loan, payment,
37 gift, pledge or subscription of money or anything of value whatsoever,
38 to a candidate to support or oppose the nomination or election of one
39 or more clearly identified candidates, to a political committee, to a
40 political party, or to a referendum committee, whether or not made in
41 an election year, and any contract, agreement, promise or other
42 obligation, whether or not legally enforceable, to make a contribution.
43 These terms include, without limitation, such contributions as labor or
44 personal services, postage, publication of campaign literature or

1 materials, in-kind transfers, loans or use of any supplies, office
2 machinery, vehicles, aircraft, office space, or similar or related
3 services, goods, or personal or real property. These terms shall also
4 include, without limitation, a debt, or any portion thereof, to pay an
5 expenditure that has been uncollected beyond the three years set in
6 G.S. 1-52 for its collection. These terms also include, without
7 limitation, the proceeds of sale of services, campaign literature and
8 materials, wearing apparel, tickets or admission prices to campaign
9 events such as rallies or dinners, and the proceeds of sale of any
10 campaign-related services or goods. Notwithstanding the foregoing
11 meanings of "contribution," the word shall not be construed to include
12 services provided without compensation by individuals volunteering a
13 portion or all of their time on behalf of a candidate, political
14 committee, or referendum committee. The term "contribution" does
15 not include an "independent expenditure." If:

- 16 a. Any individual, person, committee, association, or any other
17 organization or group of individuals, including but not limited
18 to, a political organization (as defined in section 527(e)(1) of
19 the Internal Revenue Code of 1986) makes, or contracts to
20 make, any disbursement for any electioneering communication,
21 as defined in G.S. 163-278.80(2) and (3) and
22 G.S. 163-278.90(2) and (3); and
23 b. That disbursement is coordinated with a candidate, an
24 authorized political committee of that candidate, a State or local
25 political party or committee of that party, or an agent or official
26 of any such candidate, party, or committee that disbursement or
27 contracting shall be treated as a contribution to the candidate
28 supported by the electioneering communication or that
29 candidate's party and as an expenditure by that candidate or that
30 candidate's party."

31 **SECTION 6.** G.S. 163-278.13(d) reads as rewritten:

32 "(d) For the purposes of this section, the term "an election" means any primary,
33 runoff, second primary, or general election ~~general election, or vacancy election~~ in
34 which the candidate or political committee may be involved, without regard to whether
35 the candidate is opposed or unopposed in the election, except that where a candidate is
36 not on the ballot in a runoff or second primary, that runoff or second primary is not "an
37 election" with respect to that candidate."

38 **SECTION 7.** G.S. 163-278.64(c) reads as rewritten:

39 "(c) Certification of Candidates. – Upon receipt of a submittal of the record of
40 demonstrated support by a participating candidate, the Board shall determine whether or
41 not the candidate has complied with all the following requirements, if they apply to that
42 candidate:

- 43 (1) Signed and filed a declaration of intent to participate in this Article.

- 1 (2) Submitted a report itemizing the appropriate number of qualifying
2 contributions received from registered voters, which the Board shall
3 verify through a random sample or other means it adopts. The report
4 shall include the county of residence of each registered voter listed.
- 5 (3) ~~Qualified to receive votes on the ballot as a candidate for the~~
6 ~~office.~~ Filed a notice of candidacy pursuant to G.S. 163-323.
- 7 (4) Otherwise met the requirements for participation in this Article.

8 The Board shall certify candidates complying with the requirements of this section
9 as soon as possible and no later than five business days after receipt of a satisfactory
10 record of demonstrated support."

11 **SECTION 8.** G.S. 163-278.64(d) reads as rewritten:

12 "(d) Restrictions on Contributions and Expenditures for Participating and Certified
13 Candidates. – The following restrictions shall apply to contributions and expenditures
14 with respect to participating and certified candidates:

- 15 (1) Beginning January 1 of the year before the election and before the
16 filing of a declaration of intent, a candidate for office may accept in
17 contributions up to ten thousand dollars (\$10,000) from sources and in
18 amounts permitted by Article 22A of this Chapter and may expend up
19 to ten thousand dollars (\$10,000) for any campaign purpose. A
20 candidate who exceeds either of these limits shall be ineligible to file a
21 declaration of intent or receive funds from the Public Campaign
22 Financing Fund.
- 23 (2) From the filing of a declaration of intent through the end of the
24 qualifying period, a candidate shall expend ~~no more than an amount up~~
25 ~~to a limit equal to the maximum qualifying contributions for that~~
26 ~~candidate, not including candidate and, in addition, may expend~~
27 ~~possible rescue funds or and the remaining money raised pursuant to~~
28 ~~subdivision (1) of this subsection. Contributions a candidate may use~~
29 ~~to expend to that limit shall be limited to qualifying contributions,~~
30 ~~contributions, contributions from North Carolina registered voters that~~
31 ~~are under ten dollars (\$10.00), possible rescue funds, the remaining~~
32 ~~money raised pursuant to subdivision (1) of this section, and personal~~
33 ~~and family contributions permitted by subdivision (4) of this~~
34 ~~subsection.~~
- 35 (3) After the qualifying period and through the date of the general
36 election, the candidate shall expend only the funds the candidate
37 receives from the Fund pursuant to G.S. 163-278.65(b)(4) plus any
38 funds remaining from the qualifying period and possible rescue funds.
- 39 (4) During the qualifying period, the candidate may contribute up to one
40 thousand dollars (\$1,000) of that candidate's own money to the
41 ~~campaign and campaign.~~ Debt incurred by the candidate for a
42 campaign expenditure shall count toward that limit. The candidate may
43 accept in contributions one thousand dollars (\$1,000) from each

1 member of that candidate's family consisting of spouse, parent, child,
2 brother, and sister.

3 (5) A candidate and the candidate's committee shall limit the use of all
4 revenues permitted by this subsection to expenditures for
5 campaign-related purposes only. The Board shall publish guidelines
6 outlining permissible campaign-related expenditures. In establishing
7 those guidelines, the Board shall differentiate expenditures that
8 reasonably further a candidate's campaign from expenditures for
9 personal use that would be incurred in the absence of the candidacy. In
10 establishing the guidelines, the Board shall review relevant provisions
11 of G.S. 163-278.42(e), the Federal Election Campaign Act, and rules
12 adopted pursuant to it, and similar provisions in other states.

13 (6) Any contribution received by a participating or certified candidate that
14 falls outside that permitted by this subsection shall be returned to the
15 donor as soon as practicable. Contributions intentionally made,
16 solicited, or accepted in violation of this Article are subject to civil
17 penalties as specified in G.S. 163-278.70. The funds involved shall be
18 forfeited to the Civil Penalty and Forfeiture Fund.

19 (7) A candidate shall return to the Fund any amount distributed for an
20 election that is unspent and uncommitted at the date of the election, or
21 at the time the individual ceases to be a certified candidate, whichever
22 occurs first. For accounting purposes, all qualifying, personal, and
23 family contributions shall be considered spent before revenue from the
24 Fund is spent or committed."

25 **SECTION 9.** G.S. 163-278.69(a) reads as rewritten:

26 "(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that
27 explains the functions of the appellate courts and the laws concerning the election of
28 appellate judges, the purpose and function of the Public Campaign ~~Financing~~ Fund, and
29 the laws concerning voter registration. The Board shall distribute the Guide to as many
30 voting-age individuals in the State as practical, through a mailing to all residences or
31 other means it deems effective. The distribution shall occur no more than ~~28~~14 days nor
32 fewer than seven days before the one-stop voting period provided in G.S. 163-227.2 for
33 the primary and no more than ~~28~~14 days nor fewer than seven days before the one-stop
34 voting period provided in G.S. 163-227.2 for the general election."

35 **SECTION 10.** G.S. 163-278.6(9) reads as rewritten:

36 "(9) The terms "expend" or "expenditure" mean any purchase, advance,
37 conveyance, deposit, distribution, transfer of funds, loan, payment,
38 gift, pledge or subscription of money or anything of value whatsoever,
39 whether or not made in an election year, and any contract, agreement,
40 promise or other obligation, whether or not legally enforceable, to
41 make an expenditure or to incur an obligation to pay an expenditure, to
42 support or oppose the nomination, election, or passage of one or more
43 clearly identified candidates, or ballot measure. Supporting or
44 opposing the election of clearly identified candidates includes

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

6 **SECTION 11.** G.S. 163-278.5 reads as rewritten:

7 **"§ 163-278.5. Scope of Article; severability.**

8 The provisions of this Article apply to primaries and elections for North Carolina
9 offices and to North Carolina referenda and do not apply to primaries and elections for
10 federal offices or offices in other States or to non-North Carolina referenda. Any
11 provision in this Article that regulates a non-North Carolina entity does so only to the
12 extent that the entity's actions affect elections for North Carolina offices or North
13 Carolina referenda.

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

17 This section applies to Articles 22B, 22D, 22E, and 22F to the same extent that it
18 applies to this Article."

19 **SECTION 12.** G.S. 163-278.23 reads as rewritten:

20 **"§ 163-278.23. Duties of Executive Director of Board.**

21 The Executive Director of the Board shall inspect or cause to be inspected each
22 statement filed with the Board under this Article within 30 days after the date it is filed.
23 The Executive Director shall advise, or cause to be advised, no more than 30 days and at
24 least five days before each report is due, each candidate or treasurer whose
25 organizational report has been filed, of the specific date each report is due. He shall
26 immediately notify any individual, candidate, treasurer, political committee, referendum
27 committee, media, or other entity that may be required to file a statement under this
28 Article if:

- 29 (1) It appears that the individual, candidate, treasurer, political committee,
30 referendum committee, media, or other entity has failed to file a
31 statement as required by law or that a statement filed does not conform
32 to this Article; or
33 (2) A written complaint is filed under oath with the Board by any
34 registered voter of this State alleging that a statement filed with the
35 Board does not conform to this Article or to the truth or that an
36 individual, candidate, treasurer, political committee, referendum
37 committee, media, or other entity has failed to file a statement required
38 by this Article.

39 The entity that is the subject of the complaint will be given an opportunity to
40 respond to the complaint before any action is taken requiring compliance.

41 The Executive Director of the Board of Elections shall issue written opinions to
42 candidates, the communications media, political committees, referendum committees, or
43 other entities upon request, regarding filing procedures and compliance with this
44 Article. Any such opinion so issued shall specifically refer to this paragraph. If the

1 candidate, communications media, political committees, referendum committees, or
2 other entities rely on and comply with the opinion of the Executive Director of the
3 Board of Elections, then prosecution or civil action on account of the procedure
4 followed pursuant thereto and prosecution for failure to comply with the statute
5 inconsistent with the written ruling of the Executive Director of the Board of Elections
6 issued to the candidate or committee involved shall be barred. Nothing in this paragraph
7 shall be construed to prohibit or delay the regular and timely filing of reports. The
8 Executive Director shall file all opinions issued pursuant to this section with the
9 Codifier of Rules to be published unedited in the North Carolina Register and the North
10 Carolina Administrative Code.

11 This section applies to Articles 22B, 22D, 22E, and 22F to the same extent that it
12 applies to this Article."

13 **SECTION 13.(a)** G.S. 163-278.81 reads as rewritten:

14 **"§ 163-278.81. Disclosure of Electioneering Communications.**

15 (a) Statement Required. – Every individual, committee, association, or any other
16 organization or group of individuals that makes a disbursement for the direct costs of
17 producing and airing electioneering communications in an aggregate amount in excess
18 of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours of
19 each disclosure date, file with the Board a statement containing the information
20 described in subsection (b) of this section.

21 (b) Contents of Statement. – Each statement required to be filed by this section
22 shall be made under the penalty of perjury in G.S. 14-209 and shall contain the
23 following information:

- 24 (1) The identification of the entity making the disbursement, of any entity
25 sharing or exercising direction or control over the activities of that
26 entity, and of the custodian of the books and accounts of the entity
27 making the disbursement.
- 28 (2) The principal place of business of the entity making the disbursement
29 if the entity is not an individual.
- 30 (3) The amount of each disbursement of more than one thousand dollars
31 (\$1,000) during the period covered by the statement and the
32 identification of the entity to whom the disbursement was made.
- 33 (4) The elections to which the electioneering communications pertain and
34 the names, if known, of the candidates identified or to be identified.
- 35 (5) ~~If the disbursements were paid out of a segregated bank account that~~
36 ~~consists of funds contributed solely by individuals directly to that~~
37 ~~account for electioneering communications, the~~ The names and
38 addresses of all contributors who contributed an aggregate amount of
39 more than one thousand dollars (\$1,000) during the period beginning
40 on the first day of the preceding calendar year and ending on the
41 disclosure date date to a segregated bank account that consists of funds
42 contributed solely by entities other than prohibited sources. Nothing in
43 this subdivision is to be construed as a prohibition on the use of funds

1 in such a segregated account for a purpose other than electioneering
2 communications.

3 (6) ~~If the disbursements were paid out of funds not described in~~
4 ~~subdivision (5) of this subsection, the names and addresses of all~~
5 ~~contributors who contributed an aggregate amount of more than one~~
6 ~~thousand dollars (\$1,000) to the entity making the disbursement during~~
7 ~~the period beginning on the first day of the preceding calendar year~~
8 ~~and ending on the disclosure date."~~

9 **SECTION 13.(b)** G.S. 163-278.82 reads as rewritten:

10 **"§ 163-278.82. Prohibition of corporate and labor disbursements for electioneering**
11 **communications.**

12 (a) Prohibition. – No prohibited source may make any disbursement for the costs
13 of producing or airing any electioneering communication. No individual, committee,
14 association, or any other organization or group of individuals, including but not limited
15 to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code
16 of 1986), which has received any payment from a prohibited source may make any
17 disbursement for the costs of producing and airing any electioneering communication.
18 For the purpose of this section, the term "electioneering communication" does not
19 include a communication by a section 501(c)(4) organization or a political organization
20 (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) if the
21 communication is paid for exclusively by funds provided by individuals and the
22 disbursements for costs of producing and airing the communication are paid out of a
23 segregated bank account that consists of funds contributed solely by ~~individuals~~ entities
24 other than prohibited sources directly to that account.

25 (b) Direct or Indirect Disbursement. – An electioneering communication shall be
26 treated as made by a prohibited source if the prohibited source directly or indirectly
27 disburses any amount for any of the costs of the communication.

28 (c) Segregated Fund. – Any disbursement for an electioneering communication
29 made from an account must be made from a segregated account into which no funds
30 from a prohibited source have been directly or indirectly introduced."

31 **SECTION 13.(c)** G.S. 163-278.91 reads as rewritten:

32 **"§ 163-278.91. Disclosure of Electioneering Communications.**

33 (a) Statement Required. – Every individual, committee, association, or any other
34 organization or group of individuals who makes a disbursement for the direct costs of
35 producing and transmitting electioneering communications in an aggregate amount in
36 excess of ten thousand dollars (\$10,000) during any calendar year shall, within 24 hours
37 of each disclosure date, file with the Board a statement containing the information
38 described in subsection (b) of this section.

39 (b) Contents of Statement. – Each statement required to be filed by this section
40 shall be made under the penalty of perjury in G.S. 14-209 and shall contain the
41 following information:

42 (1) The identification of the entity making the disbursement, of any entity
43 sharing or exercising direction or control over the activities of that

1 entity, and of the custodian of the books and accounts of the entity
2 making the disbursement.

3 (2) The principal place of business of the entity making the disbursement
4 if the entity is not an individual.

5 (3) The amount of each disbursement of more than one thousand dollars
6 (\$1,000) during the period covered by the statement and the
7 identification of the entity to whom the disbursement was made.

8 (4) The elections to which the electioneering communications pertain and
9 the names, if known, of the candidates identified or to be identified.

10 (5) ~~If the disbursements were paid out of a segregated bank account that~~
11 ~~consists of funds contributed solely by individuals directly to that~~
12 ~~account for electioneering communications, the~~ The names and
13 addresses of all contributors who contributed an aggregate amount of
14 more than one thousand dollars (\$1,000) during the period beginning
15 on the first day of the preceding calendar year and ending on the
16 disclosure date. date to a segregated bank account that consists of
17 funds contributed solely by entities other than prohibited sources.
18 Nothing in this subdivision is to be construed as a prohibition on the
19 use of funds in such a segregated account for a purpose other than
20 electioneering communications.

21 (6) ~~If the disbursements were paid out of funds not described in~~
22 ~~subdivision (5) of this subsection, the names and addresses of all~~
23 ~~contributors who contributed an aggregate amount of more than one~~
24 ~~thousand dollars (\$1,000) to the entity making the disbursement during~~
25 ~~the period beginning on the first day of the preceding calendar year~~
26 ~~and ending on the disclosure date."~~

27 **SECTION 13.(d)** G.S. 163-278.92 reads as rewritten:

28 **"§ 163-278.92. Prohibition of corporate and labor disbursements for electioneering**
29 **communications.**

30 (a) Prohibition. – No prohibited source may make any disbursement for the costs
31 of producing or airing any electioneering communication. No individual, committee,
32 association, or any other organization or group of individuals, including but not limited
33 to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code
34 of 1986), which has received any payment from a prohibited source may make any
35 disbursement for the costs of producing and airing any electioneering communication.
36 For the purpose of this section, the term "electioneering communication" does not
37 include a communication by a section 501(c)(4) organization or a political organization
38 (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) if the
39 communication is paid for exclusively by funds provided by individuals and the
40 disbursements for costs of producing and airing the communication are paid out of a
41 segregated bank account that consists of funds contributed solely by ~~individuals~~ entities
42 other than prohibited sources directly to that account.

1 (b) Direct or Indirect Disbursement. – An electioneering communication shall be
2 treated as made by a prohibited source if the prohibited source directly or indirectly
3 disburses any amount for any of the costs of the communication.

4 (c) Segregated Fund. – Any disbursement for an electioneering communication
5 made from an account must be made from a segregated account into which no funds
6 from a prohibited source have been directly or indirectly introduced."

7 **SECTION 14.** This act becomes effective July 1, 2005, and applies to
8 primaries and elections held on or after that date.