

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1063

Short Title: Campaign Standards.

(Public)

Sponsors: Senator Metcalf.

Referred to: Judiciary I.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A CODE OF CAMPAIGN STANDARDS TO BE
3 ENFORCED BY THE STATE BOARD OF ELECTIONS.

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. Powers and duties of the State Board of Elections.**

14 (a) Adoption of Rules. – The State Board of Elections shall adopt any rules
15 necessary for the effective administration of this Article, not inconsistent with the
16 provisions of this Article.

17 (b) Receipt and Processing of Complaints. – The State Board of Elections shall
18 prescribe the form of complaints alleging violation of G.S. 163-278.62. A complaint
19 shall be made by affidavit under penalty of perjury. Upon the filing of a complaint with

1 the State Board, the State Board shall process the complaint in accordance with G.S. 163-
2 278.63.

3 (c) Reports to the General Assembly. – The State Board shall report to the General
4 Assembly by the convening of every regular session of the General Assembly. The
5 report shall review the most recent campaign with respect to the purpose of this Article
6 and the Code of Campaign Standards set out in G.S. 163-278.62. The State Board may
7 recommend legislation.

8 **"§ 163-278.62. Code of Campaign Standards.**

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

- 14 (1) Make a false or misleading statement concerning the voting record of a
15 candidate or public official. 'Voting record' under this subdivision
16 means the recorded affirmative or negative on a bill, ordinance,
17 resolution, motion, amendment, or confirmation. A 'misleading
18 statement' under this subdivision includes taking votes or actions
19 significantly out of context or distorting the opponent's record by the
20 use of demonstrably unrepresentative votes or actions.
- 21 (2) Make a false or misleading statement that a candidate or public official
22 has been indicted or convicted of a theft offense, extortion, or other
23 crime involving financial corruption or moral turpitude.
- 24 (3) Make a statement that a candidate has been indicted for any crime or has
25 been the subject of a finding by the Campaign Standards Commission
26 without disclosing the outcome of any legal proceedings resulting from
27 the indictment or finding.
- 28 (4) Make a false or misleading statement that a candidate or official has a
29 record of treatment or confinement for mental disorder.
- 30 (5) Make a false or misleading statement that a candidate or official has
31 been subjected to military discipline for criminal misconduct or
32 dishonorably discharged from the armed services.
- 33 (6) Identify in a false or misleading way the source of a statement, issue
34 statements under the name of another person without attribution, or state
35 in a false or misleading way the endorsement of or opposition to a
36 candidate by a person or publication.
- 37 (7) Use the title of an office not currently held by a candidate in a manner
38 that implies that the candidate does currently hold that office or use the
39 term 'reelect' when the candidate has never been elected at a primary,
40 general, or special election to the office for which that person is a
41 candidate.
- 42 (8) Make a false or misleading statement concerning the formal schooling
43 or training completed or attempted by a candidate; a degree, diploma,

1 certificate, scholarship, grant, award, prize, or honor received, earned,
2 or held by a candidate; or the period of time during which a candidate
3 attended any school, college, community technical school, or institution.

- 4 (9) Make a false or misleading statement concerning the professional,
5 occupational, or vocational licenses held by a candidate, or concerning
6 any position the candidate held for which the candidate received a salary
7 or wages.

8 **"§ 163-278.63. Processing of complaint.**

9 (a) Probable Cause Hearing. – If a complaint is filed alleging a violation of the
10 Code of Campaign Standards in G.S. 163-278.62, the Executive Secretary-Director of the
11 State Board of Elections shall examine the complaint and make a determination if the
12 complaint alleges a violation of the Code of Campaign Standards. If the Executive
13 Secretary so determines, a panel of two members of the State Board shall determine
14 whether there is probable cause to refer the matter to the full State Board. The two
15 members of the panel shall not be of the same political party. The panel shall meet
16 within three business days after the Executive Secretary-Director makes a determination
17 that the complaint alleges a violation, unless the panel finds good cause to postpone the
18 meeting. All members of the panel shall participate if the panel refers a complaint to the
19 full State Board, provided that the panel's meeting may be conducted by conference call.
20 The panel shall make only one of the following two findings:

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

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

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

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

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

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

37 A finding that a violation has occurred may be entered only by a vote of at least four
38 members of the State Board.

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

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