

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 881 2<sup>nd</sup> Edition (Committee Substitute) Campaign Reform Act of 1999

**SHORT TITLE:** Campaign Reform Act of 1999

**SPONSOR(S):** Sen. Gulley

| <b>FISCAL IMPACT</b>  |                          |                          |                                  |                          |                            |
|---|--------------------------|--------------------------|----------------------------------|--------------------------|----------------------------|
|   | <b>Yes ( )</b>           | <b>No (X )</b>           | <b>No Estimate Available ( )</b> |                          |                            |
|   | <b><u>FY 1999-00</u></b> | <b><u>FY 2000-01</u></b> | <b><u>FY 2001-02</u></b>         | <b><u>FY 2002-03</u></b> | <b><u>FY 2003-04</u></b>   |
| <b>REVENUES</b>   |                          |                          |                                  |                          |                            |
| <b>EXPENDITURES</b>   |                          |                          |                                  |                          | no additional expenditures |
| <b>POSITIONS:</b>   |                          | none                     |                                  |                          |                            |
| <b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction, Judicial Department, State Board of Elections, Dept. of Health and Human Services |                          |                          |                                  |                          |                            |
| <b>EFFECTIVE DATE:</b>  |                          |                          |                                  |                          |                            |

**BILL SUMMARY:** Adapted from the June 2, 1999 Daily Bulletin.

The Senate Judiciary I Committee substitute replaces the blank bill introduced on April 13, 1999. The amended bill adds to GS Ch. 163, Article 22A, a new Part 1A creating disclosure requirements for political campaign advertisements in print media, on television, or on radio. It makes it unlawful for any candidate, candidate committee, political party organization, political action committee, referendum committee, individual, or other entity to purchase an advertisement that constitutes an expenditure or contribution under Article 22A unless the following conditions are met:

- (1) the advertisement bears a statement disclosing the name of the sponsor;
- (2) the sponsor named in the disclosure statement is the name that appears on the statement of organization as required in GS 163-278.7(b)(1);
- (3) the sponsor states in the advertisement its position for or against the candidate, if the advertisement supports or opposes the nomination or election of a candidate;

- (4) the sponsor states in the advertisement its position for or against a ballot measure, if the advertisement is made for or against a ballot measure;
- (5) the disclosure statement states whether it is authorized by a candidate, if a print media advertisement supporting or opposing a candidate;
- (6) the sponsor discloses the name of candidate who is intended to benefit from the advertisement, if a print media advertisement identifies a candidate the sponsor is opposing.

The bill sets size requirements for disclosure statements. Disclosure statements that misrepresent sponsorship constitute a Class I misdemeanor; other violations constitute a Class 2 misdemeanor.

In addition to the foregoing disclosure requirements, the bill provides specific disclosure statements that must be spoken by sponsors of television and radio advertisements supporting or opposing the nomination or election of one or more clearly identified candidates. It provides civil cause of action for complying candidate against opposing candidate whose television or radio advertisement violates disclosure requirements. Damages award is the total dollar amount of TV or radio advertising time that was aired in violation of disclosure requirements; treble damages are available where plaintiff candidate notified sponsor of violation and advertisement continued to be aired. Attorneys' fees are also awarded to plaintiff who prevails in action. Disclosure requirements do not apply to an individual who makes uncoordinated independent expenditures aggregating less than \$1,000 or to an individual who incurs expenses with respect to a referendum. Requirements do not apply to any advertisement the expenditure for which is required to be disclosed by GS 163-278.12A alone.

The foregoing provisions are effective January 1, 2000 and applicable to all contributions and expenditures made or accepted after that date.

The bill describes what constitutes prima facie evidence that communications are "to support or oppose the nomination or election of one or more clearly identified candidates" and sets five-year statute of limitations for campaign finance misdemeanors.

It exempts State Board of Elections and Executive Secretary-Director of Board from GS Ch. 150B, provided that they must follow the procedures in subsections (a) through (g) and subsection (i) of GS 150B-21.2 when promulgating rules.

Effective October 1, 1999, the bill amends GS 163-278.13B(c) to prohibit, while the General Assembly is in session, any limited contributor from soliciting a contribution from any individual or political committee on behalf of a limited contributee.

The bill requires DHHS to furnish a list of deceased persons to county boards of elections monthly (now, quarterly). It requires the clerk of superior court to report on convictions on a monthly basis also.

Effective January 1, 2002, it expands the list of information requested of an applicant on the voter registration form to include ethnicity, and requires race and ethnicity choices on the form to include as a choice any category shown by the most recent decennial federal census to compose at least one percent of the total population of North Carolina.

Appropriates from General Fund to State Board of Elections \$85,000 for 1999-2000 and \$85,000 for 2000-2001 for purpose of implementing this act.



## **ASSUMPTIONS AND METHODOLOGY:**

### ***Judicial Department:***

The bill establishes a new Class 1 misdemeanor offense in G.S. 163-278.39(c) for disclosure statements that misrepresent sponsorship. Section 2(c) of the bill amends G.S. 163-278-27(a) to make other violations of G.S. 162-278.39 relating to disclosure in general Class 2 misdemeanors. Also, section 4(a) of 163-278.27A extends the statute of limitation for prosecution of misdemeanors under the Article to 5 years. Under existing law the statute of limitations for misdemeanors in general is 2 years.

The data maintained by the Administrative Office of the Courts (AOC) do not reveal the number of charges brought under existing provisions of Chapter 163. Further, AOC is not able to estimate the specific number of cases that might arise under or be affected by this bill. However, the AOC assumes that violations of the campaign related requirements of this bill would be relatively infrequent and therefore estimates that this bill would not have a substantial fiscal impact on the judicial system.

### ***Department of Correction:***

This bill creates two new offenses as noted above: a Class 1 misdemeanor to misrepresent the sponsorship in a disclosure statement and a Class 2 misdemeanor for all other violations of 163-278.39. Because the offenses are new, the Sentencing Commission has no historical data from which to estimate the impact on prison populations. Based on AOC's database for fiscal year 1997-98, Class 1 misdemeanors have a 17% active rate and their average active sentence is 47 days while Class 2 misdemeanors have an 11% active rate and an average active sentence of 25 days. Based on the low percentage of active sentences and the low sentence terms, the Sentencing Commission estimates that any convictions for charges arising from this bill would not have a substantial impact on the prison system.

### ***Department of Health and Human Services:***

The bill amends G.S. 163-82.14 to require the Department of Health and Human Services (DHHS) to furnish each county board of elections a certified list of the names of the deceased persons who were residents of that county on a monthly basis rather than quarterly. DHHS provided 2 estimates for the cost of providing this information on a monthly basis.

Their first estimate of \$28,000 is based on their existing paper method for collecting the data and providing it to the counties. Currently, the Vital Record Section of the Division of Public Health keys information from death certificates submitted by doctors and hospitals to its mainframe database. On a quarterly basis, a report of deaths by county is generated and the copies of the death certificates are made. The copies of the death certificates are sent to the counties on a quarterly basis. The Department of Health and Human Services estimate that the cost of providing this information to the counties is \$3,500 per quarter for a total of \$14,000 annually. This includes the cost of computer charges for accessing the mainframe, programming the system to generate the report (which is done each quarter), reproducing copies of the death certificates, and distributing the copies to the counties. The Department estimates that the cost of providing this information on a monthly basis will increase to \$42,000, annually ( $\$14,000/\text{qtr} * 3 = \$42,000$ ). This cost is \$28,000 greater than what it currently costs to provide the information on a quarterly basis.

Their second estimate is for \$150,000 nonrecurring in the first year and \$60,000 to \$75,00 recurring in subsequent years. This estimate is based on a plan to develop a web-based

system that will allow doctors and hospitals to electronically submit death certificate data to the Vital Records Section. Vital Records would then verify the data and convert it into a format that would be available via a website to the counties. This process eliminates the need for Vital Records to enter data and to send hard copies of death certificates to the counties.

The Department's first estimate for providing the information *monthly is 3 times its cost of providing it quarterly*. Because this bill increases the reporting frequency and not the volume or the nature of the information provided to the counties, the Fiscal Research Division concludes there will be no substantial increase in the cost of providing the information on a monthly basis. While postage cost is expected to increase slightly, it is not reasonable to expect the total cost to triple.

Further, we believe a standard program to extract the required information from the mainframe database should be developed and executed on a monthly basis, thereby eliminating the need and related cost of developing a program each time a report is needed. The Fiscal Research Division believes their second estimate based on the automated process is likely to provide greater efficiency and more timely data collection and dissemination than the paper method currently used. However, the plan appears to go beyond the minimum requirements of this bill.

***State Board of Elections:***

The bill expands the list of information requested on the voter registration form to include ethnicity, effective January 1, 2002. The State Board of Elections estimates that this bill will have no substantial fiscal impact on the State Board. The will be minimal cost to revise the form to include the additional data. No funding beyond what is in the continuation budget is needed to print copies of the revised form. Further the effective date of this change allows ample time to insure that excess copies of the existing form are not printed.

The State Board of Elections estimates that additional complaints will be filed as a result of the bill. The Board currently has two investigator positions and does not estimate that the increase in the volume of complaints will warrant any additional position. The Board does expect that travel cost may increase. However, it is not able to estimate what that increase may be.

**FISCAL RESEARCH DIVISION 733-4910**

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**DATE:** Tuesday, June 15, 1999



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