

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60579-ST-16 (04/28)

Short Title: Strengthen Electioneering Communications. (Public)

Sponsors: Representatives Hackney, Howard, Eddins, Ross (Primary Sponsors); Barnhart, Bell, Brubaker, Coates, Earle, Fisher, Gibson, Harrison, Justice, Lucas, Luebke, Martin, McLawhorn, Nye, Sauls, Setzer, Sherrill, Steen, and West.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO STRENGTHEN REGULATION OF ELECTIONEERING
COMMUNICATIONS IN NORTH CAROLINA, AS RECOMMENDED BY THE
HOUSE SELECT COMMITTEE ON ETHICS AND GOVERNMENTAL
REFORM.

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~~ incurred expenses 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 the General Assembly.

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

44 **SECTION 2.** G.S. 163-278.82(a) reads as rewritten:

1 "(a) Prohibition. – No prohibited source may make any disbursement for the costs
2 of producing or airing any electioneering communication. No individual, committee,
3 association, or any other organization or group of individuals, including but not limited
4 to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code
5 of 1986), which has received any payment from a prohibited source may make any
6 disbursement for the costs of producing and airing any electioneering ~~communication.~~
7 communication, unless that individual, committee, association, or other organization or
8 group of individuals maintains a segregated bank account that consists of funds
9 contributed solely by entities other than prohibited sources. ~~For the purpose of this~~
10 ~~section, the term "electioneering communication" does not include a communication by~~
11 ~~a section 501(c)(4) organization or a political organization (as defined in section~~
12 ~~527(e)(1) of the Internal Revenue Code of 1986) if the communication is paid for~~
13 ~~exclusively by funds provided by individuals and the disbursements for costs of~~
14 ~~producing and airing the communication are paid out of a segregated bank account that~~
15 ~~consists of funds contributed solely by entities other than prohibited sources directly to~~
16 ~~that account. For purposes of this section, the term "payment" shall not include monies~~
17 ~~paid to an individual, committee, association, or other organization or group of~~
18 ~~individuals for services rendered or other payment of debt owed."~~

19 **SECTION 3** G.S. 163-278.90 reads as rewritten:

20 **"§ 163-278.90. Definitions.**

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

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

- 23 a. The first date during any calendar year when an electioneering
24 communication is transmitted after an entity has ~~made~~
25 ~~disbursements—incurred expenses~~ for the direct costs of
26 producing or transmitting electioneering communications
27 aggregating in excess of ten thousand dollars (\$10,000).
28 b. Any other date during that calendar year by which an entity has
29 made disbursements for the direct costs of producing or
30 transmitting electioneering communications aggregating in
31 excess of ten thousand dollars (\$10,000) since the most recent
32 disclosure date for that calendar year.

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

- 35 a. Refers to a clearly identified candidate for a statewide office or
36 the General Assembly.
37 b. Is made within one of the following time periods:
38 1. 60 days before a general or special an election for the
39 office sought by the candidate, or
40 2. 30 days before a primary election or a convention of a
41 political party that has authority to nominate a candidate
42 for the office sought by the candidate.
43 c. Is targeted to the relevant electorate.

- 1 (3) The term "electioneering communication" does not include any of the
2 following:
- 3 a. A communication appearing in a news story, commentary, or
4 editorial distributed through any newspaper or periodical,
5 unless that publication is owned or controlled by any political
6 party, political committee, or candidate.
- 7 b. A communication that constitutes an expenditure or
8 independent expenditure under Article 22A of this Chapter.
- 9 c. A communication that constitutes a candidate debate or forum
10 conducted pursuant to rules adopted by the Board or that solely
11 promotes that debate or forum and is made by or on behalf of
12 the person sponsoring the debate or forum.
- 13 d. A communication that is distributed by a corporation solely to
14 its shareholders or employees, or by a labor union or
15 professional association solely to its members.
- 16 e. A communication made while the General Assembly is in
17 session which, incidental to advocacy for or against a specific
18 piece of legislation pending before the General Assembly, urges
19 the audience to communicate with a member or members of the
20 General Assembly concerning that piece of legislation.
- 21 (4) The term "mass mailing" means any mailing by United States mail or
22 ~~facsimile that is targeted to the relevant electorate and is made by a~~
23 ~~commercial vendor or made from any commercial list.~~ facsimile. Part
24 1A of Article 22A of this Chapter has its own internal definition of
25 "mass mailing" under the definition of "print media," and that
26 definition does not apply in this Article.
- 27 (5) The term "prohibited source" means any corporation, insurance
28 company, labor union, or professional association. The term
29 "prohibited source" does not include an entity that meets all the criteria
30 set forth in G.S. 163-278.19(f).
- 31 (6) The term "targeted to the relevant electorate" means a communication
32 which refers to a clearly identified candidate for statewide office or the
33 General Assembly and which:
- 34 a. If transmitted by mail or facsimile in connection with a clearly
35 identified candidate for statewide office, is transmitted to
36 50,000 or more addresses in the State, by the transmission of
37 identical or substantially similar matter within any 30-day
38 period, or, in connection with a clearly identified candidate for
39 the General Assembly, is transmitted to ~~5,000~~ 2,500 or more
40 addresses in the district, by the transmission of identical or
41 substantially identical matter within any 30-day period.
- 42 b. If transmitted by telephone, in connection with a clearly
43 identified candidate for statewide office, more than 50,000
44 telephone calls in the State of an identical or substantially

1 similar nature within any 30-day period, or in the case of a
2 clearly identified candidate for the General Assembly, more
3 than ~~5,000~~ 2,500 calls in the district of an identical or
4 substantially similar nature within any 30-day period.

5 (7) The term "telephone bank" means telephone calls that are targeted to
6 the relevant electorate, except when those telephone calls are made by
7 volunteer workers, whether or not the design of the telephone bank
8 system, development of calling instructions, or training of volunteers
9 was done by paid professionals.

10 (8) The term "501(c)(4) organization" means either of the following:

11 a. An organization described in section 501(c)(4) of the Internal
12 Revenue Code of 1986 and exempt from taxation under section
13 501(a) of that Code.

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

17 (9) Except as otherwise provided in this Article, the definitions in Article
18 22A of this Chapter apply in this Article."

19 **SECTION 4.** G.S. 163-278.92(a) reads as rewritten:

20 "(a) Prohibition. – No prohibited source may make any disbursement for the costs
21 of producing or airing any electioneering communication. No individual, committee,
22 association, or any other organization or group of individuals, including but not limited
23 to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code
24 of 1986), which has received any payment from a prohibited source may make any
25 disbursement for the costs of producing and airing any electioneering ~~communication.~~
26 communication, unless that individual, committee, association, or other organization or
27 group of individuals maintains a segregated bank account that consists of funds
28 contributed solely by entities other than prohibited sources. For the purpose of this
29 section, the term "electioneering communication" does not include a communication by
30 a section 501(c)(4) organization or a political organization (as defined in section
31 527(e)(1) of the Internal Revenue Code of 1986) if the communication is paid for
32 exclusively by funds provided by individuals and the disbursements for costs of
33 producing and airing the communication are paid out of a segregated bank account that
34 consists of funds contributed solely by entities other than prohibited sources directly to
35 that account. For purposes of this section, the term "payment" shall not include monies
36 paid to an individual, committee, association, or other organization or group of
37 individuals for services rendered or other payment of debt owed."

38 **SECTION 5.** This act is effective when it becomes law.