

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 1850**

Short Title: Strengthen Electioneering Communications. (Public)

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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, West, Alexander, Bordsen, Dickson, Glazier, Insko, Jeffus, McGee, Underhill, and Weiss.

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Referred to: Judiciary I.

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May 10, 2006

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

- 1                   1.     60 days before a general or special an election for the
- 2                   office 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 office or the
- 30                   General Assembly and which can be received by 50,000 or more
- 31                   individuals in the State in the case of a candidacy for statewide office
- 32                   and ~~7,500~~2,500 or more individuals in the district in the case of a
- 33                   candidacy for General Assembly.
- 34           (6)     The term "501(c)(4) organization" means either of the following:
- 35                   a.     An organization described in section 501(c)(4) of the Internal
- 36                   Revenue Code of 1986 and exempt from taxation under section
- 37                   501(a) of that Code.
- 38                   b.     An organization that has submitted an application to the Internal
- 39                   Revenue Service for determination of its status as an
- 40                   organization described in sub-subdivision a. of this subdivision.
- 41           (7)     Except as otherwise provided in this Article, the definitions in Article
- 42                   22A of this Chapter apply in this Article."

43     **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.