

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1260
Select Committee on Government and Election Reform Committee Substitute
Adopted 5/22/07

Short Title: 527 Reporting.

(Public)

Sponsors:

Referred to:

March 26, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE YEAR-ROUND REPORTING OF CANDIDATE-SPECIFIC
3 COMMUNICATIONS BY "POLITICAL ORGANIZATIONS" AS DEFINED
4 UNDER SECTION 527 OF THE INTERNAL REVENUE CODE; AND TO MAKE
5 TECHNICAL CHANGES TO THE CANDIDATE-SPECIFIC
6 COMMUNICATIONS LAW.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 163-278.100 is amended by adding a new subdivision to
9 read:

10 "(1a) If the maker of a communication is a "political organization" as
11 defined in section 527(e) of the Internal Revenue Code of 1986, the
12 term "candidate-specific communication" means any broadcast, cable,
13 or satellite communication that has all of the following characteristics:

- 14 a. Refers to a clearly identified candidate for a statewide office or
15 the General Assembly.
16 b. Is made at any time other than the period set in the definition
17 for "electioneering communication" in G.S. 163-278.80(2)b.
18 c. Is targeted to the relevant electorate.

19 The exceptions of subdivision (2) of this section apply to this
20 subdivision. For purposes of this subdivision, "maker" means any
21 committee, association, or any other organization or group of
22 individuals that incurs an expense for the direct costs of producing or
23 airing the communication."

24 **SECTION 2.** G.S. 163-278.110 is amended by adding a new subdivision to
25 read:

26 "(1a) If the maker of a communication is a "political organization" as
27 defined in section 527(e) of the Internal Revenue Code of 1986, the

1 term "candidate-specific communication" means any mass mailing or
2 telephone bank that has all of the following characteristics:

3 a. Refers to a clearly identified candidate for a statewide office or
4 the General Assembly.

5 b. Is made at any time other than the period set in the definition
6 for "electioneering communication" in G.S. 163-278.90(2)b.

7 c. Is targeted to the relevant electorate.

8 The exceptions of subdivision (2) of this section apply to this
9 subdivision. For purposes of this subdivision, "maker" means any
10 committee, association, or any other organization or group of
11 individuals that incurs an expense for the direct costs of producing or
12 transmitting the communication."

13 **SECTION 3.** G.S. 163-278.110 is amended by adding a new subdivision to
14 read:

15 "(8) Except as otherwise provided in this Article, the definitions in Article
16 22A of this Chapter apply in this Article."

17 **SECTION 4.(a)** G.S. 163-278.23 reads as rewritten:

18 **"§ 163-278.23. Duties of Executive Director of Board.**

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

27 (1) It appears that the individual, candidate, treasurer, political committee,
28 referendum committee, media, or other entity has failed to file a
29 statement as required by law or that a statement filed does not conform
30 to this Article; or

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

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

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

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

9 This section applies to Articles 22B, 22D, 22E, ~~and 22F~~ 22F, 22G, and 22H of the
10 ~~General Statutes this Chapter~~ to the same extent that it applies to this Article."

11 **SECTION 4.(b)** G.S. 163-278.5 reads as rewritten:

12 "**§ 163-278.5. Scope of Article; severability.**

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

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

22 This section applies to Articles 22B, 22D, 22E, ~~and 22F~~ 22F, 22G, and 22H of the
23 ~~General Statutes this Chapter~~ to the same extent that it applies to this Article."

24 **SECTION 5.** This act is effective when it becomes law and applies to
25 communications made on or after that date.