

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1846
Committee Substitute Favorable 6/6/06
Senate Judiciary I Committee Substitute Adopted 7/7/06

Short Title: 2006 Campaign Finance Changes.

(Public)

Sponsors:

Referred to:

May 10, 2006

A BILL TO BE ENTITLED

1
2 AN ACT TO LOWER THE THRESHOLD FROM ONE HUNDRED DOLLARS TO
3 FIFTY DOLLARS FOR ACCEPTING A POLITICAL CONTRIBUTION IN
4 CASH; TO PROHIBIT THE USE OF BLANK PAYEE CHECKS IN CAMPAIGN
5 CONTRIBUTIONS; TO REQUIRE THE REPORTING OF THE IDENTITY OF A
6 CONTRIBUTOR WHO MAKES A CONTRIBUTION OF MORE THAN FIFTY
7 DOLLARS; TO SPECIFY THE TIME PERIOD BY WHICH THE THRESHOLD
8 FOR IDENTIFYING AN INDIVIDUAL CONTRIBUTOR'S IDENTITY IS
9 MEASURED; TO ADD A PENALTY FOR ACCEPTING CONTRIBUTIONS
10 FROM CERTAIN NONLEGAL SOURCES; TO BAR PROSECUTION IF BEST
11 EFFORTS ARE MADE TO ENSURE THAT A CONTRIBUTION IS FROM A
12 LEGAL SOURCE; AND TO STRENGTHEN POLITICAL COMMITTEE
13 TREASURER TRAINING.

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** G.S. 163-278.14(b) reads as rewritten:

16 "(b) No entity shall ~~give, make,~~ and no candidate, committee or treasurer shall
17 accept, any monetary contribution in excess of ~~one hundred fifty~~ dollars ~~(\$100.00)~~
18 (\$50.00) unless such contribution ~~be is~~ in the form of a check, draft, money order, credit
19 card charge, debit, or other noncash method that can be subject to written verification.
20 No contribution in the form of check, draft, money order, credit card charge, debits, or
21 other noncash method may be made or accepted unless it contains a specific designation
22 of the intended contributee chosen by the contributor. The State Board of Elections may
23 prescribe guidelines as to the reporting and verification of any method of contribution
24 payment allowed under this Article. For contributions by money order, the State Board
25 shall prescribe methods to ensure an audit trail for every contribution so that the identity
26 of the contributor can be determined. For a contribution made by credit card, the credit
27 card account number of a contributor is not a public record."

28 **SECTION 2.** G.S. 163-278.20 is repealed.

1 **SECTION 3.** G.S. 163-278.19(b) reads as rewritten:

2 "(b) It shall, however, be lawful for any corporation, business entity, labor union,
3 professional association or insurance company to communicate with its employees,
4 stockholders or members and their families on any subject; to conduct nonpartisan
5 registration and get-out-the-vote campaigns aimed at their employees, stockholders, or
6 members and their families; or for officials and employees of any corporation, insurance
7 company or business entity or the officials and members of any labor union or
8 professional association to establish, administer, contribute to, and to receive and solicit
9 contributions to a separate segregated fund to be utilized for political purposes, ~~except~~
10 ~~as provided in G.S. 163-278.20,~~ and those individuals shall be deemed to become and
11 be a political committee as that term is defined in G.S. 163-278.6(14) or a referendum
12 committee as defined in G.S. 163-278.6(18b); provided, however, that it shall be
13 unlawful for any such fund to make a contribution or expenditure by utilizing
14 contributions secured by physical force, job discrimination, financial reprisals or the
15 threat of force, job discrimination or financial reprisals, or by dues, fees, or other
16 moneys required as a condition of membership or employment or as a requirement with
17 respect to any terms or conditions of employment, including, without limitation, hiring,
18 firing, transferring, promoting, demoting, or granting seniority or employment-related
19 benefits of any kind, or by moneys obtained in any commercial transaction whatsoever."

20 **SECTION 4.** G.S. 163-278.8 reads as rewritten:

21 "**§ 163-278.8. Detailed accounts to be kept by political treasurers.**

22 (a) The treasurer of each candidate, political committee, and referendum
23 committee shall keep detailed accounts, current within not more than seven days after
24 the date of receiving a contribution or making an expenditure, of all contributions
25 received and all expenditures made by or on behalf of the candidate, political
26 committee, or referendum committee. The accounts shall include the information
27 required by the State Board of Elections on its forms.

28 (b) Accounts kept by the treasurer of a candidate, political committee, or
29 referendum committee or the accounts of a treasurer or political committee at any bank
30 or other depository listed under G.S. 163-278.7(b)(7), may be inspected, before or after
31 the election to which the accounts refer, by a member, designee, agent, attorney or
32 employee of the Board who is making an investigation pursuant to G.S. 163-278.22.

33 (c) Repealed by Session Laws 2004-125, s. 5(a), effective July 20, 2004, and
34 applicable to contributions made on or after January 1, 2003.

35 ~~(d) A treasurer shall not be required to report the name of any individual who is a~~
36 ~~resident of this State who makes a total contribution of one hundred dollars (\$100.00) or~~
37 ~~less but he shall instead report the fact that he has received a total contribution of one~~
38 ~~hundred dollars (\$100.00) or less, the amount of the contribution, and the date of~~
39 ~~receipt. If a treasurer receives contributions of one hundred dollars (\$100.00) or less,~~
40 ~~each at a single event, he may account for and report the total amount received at that~~
41 ~~event, the date and place of the event, the nature of the event, and the approximate~~
42 ~~number of people at the event. With respect to the proceeds of sale of services,~~
43 ~~campaign literature and materials, wearing apparel, tickets or admission prices to~~
44 ~~campaign events such as rallies or dinners, and the proceeds of sale of any~~

1 campaign-related services or goods, if the price or value received for any single service
2 or goods exceeds one hundred dollars (\$100.00), the treasurer shall account for and
3 report the name of the individual paying for such services or goods, the amount
4 received, and the date of receipt, but if the price or value received for any single service
5 or item of goods does not exceed one hundred dollars (\$100.00), the treasurer may
6 report only those services or goods rendered or sold at a value that does not exceed one
7 hundred dollars (\$100.00), the nature of the services or goods, the amount received in
8 the aggregate for the services or goods, and the date of the receipt.

9 (e) All expenditures for media expenses shall be made by a verifiable form of
10 payment. The State Board of Elections shall prescribe methods to ensure an audit trail
11 for every expenditure so that the identity of each payee can be determined. All media
12 expenditures in any amount shall be accounted for and reported individually and
13 separately.

14 (f) All expenditures for nonmedia expenses (except postage) of more than fifty
15 dollars (\$50.00) shall be made by a verifiable form of payment. The State Board of
16 Elections shall prescribe methods to ensure an audit trail for every expenditure so that
17 the identity of each payee can be determined. All expenditures for nonmedia expenses
18 of fifty dollars (\$50.00) or less may be made by check or by cash payment. All
19 nonmedia expenditures of more than fifty dollars (\$50.00) shall be accounted for and
20 reported individually and separately, but expenditures of fifty dollars (\$50.00) or less
21 may be accounted for and reported in an aggregated amount, but in that case the
22 treasurer shall account for and report that he made expenditures of fifty dollars (\$50.00)
23 or less each, the amounts, dates, and the purposes for which made. In the case of a
24 nonmedia expenditure required to be accounted for individually and separately by this
25 subsection, if the expenditure was to an individual, the report shall list the name and
26 address of the individual.

27 (g) All proceeds from loans shall be recorded separately with a detailed analysis
28 reflecting the amount of the loan, the source, the period, the rate of interest, and the
29 security pledged, if any, and all makers and endorsers."

30 **SECTION 5.** G.S. 163-278.11 reads as rewritten:

31 **"§ 163-278.11. Contents of treasurer's statement of receipts and expenditures.**

32 (a) Statements filed pursuant to provisions of this Article shall set forth the
33 following:

- 34 (1) Contributions. – Except as provided in subsection (a1) of this section,
35 A list of all contributions ~~required to be listed under G.S. 163-278.8~~
36 received by or on behalf of a candidate, political committee, or
37 referendum committee. The statement shall list the name and complete
38 mailing address of each contributor, the amount contributed, the
39 principal occupation of the contributor, and the date such contribution
40 was received. The total sum of all contributions to date shall be plainly
41 exhibited. Forms for required reports shall be prescribed by the Board.
42 As used in this section, "principal occupation of the contributor"
43 means the contributor's:

- 44 a. Job title or profession; and

1 b. Employer's name or employer's specific field of business
2 activity.

3 The State Board of Elections shall prepare a schedule of specific fields
4 of business activity, adapting or modifying as it deems suitable the
5 business activity classifications of the Internal Revenue Code or other
6 relevant classification schedules. In reporting a contributor's specific
7 field of business activity, the treasurer shall use the classification
8 schedule prepared by the State Board.

9 (2) Expenditures. – A list of all expenditures required under
10 G.S. 163-278.8 made by or on behalf of a candidate, political
11 committee, or referendum committee. The statement shall list the name
12 and complete mailing address of each payee, the amount paid, the
13 purpose, and the date such payment was made. The total sum of all
14 expenditures to date shall be plainly exhibited. Forms for required
15 reports shall be prescribed by the Board.

16 (3) Loans. – Every candidate and treasurer shall attach to the campaign
17 transmittal submitted with each report an addendum listing all
18 proceeds derived from loans for funds used or to be used in this
19 campaign. The addendum shall be in the form as prescribed by the
20 State Board of Elections and shall list the amount of the loan, the
21 source, the period, the rate of interest, and the security pledged, if any,
22 and all makers and endorsers.

23 (a1) Threshold for Reporting Identity of Contributor. – A treasurer shall not be
24 required to report the name, address, or principal occupation of any individual resident
25 of the State who contributes fifty dollars (\$50.00) or less to the treasurer's committee
26 during an election as defined in G.S. 163-278.13. The State Board of Elections shall
27 provide on its reporting forms for the reporting of contributions below that threshold.
28 On those reporting forms, the State Board may require date and amount of contributions
29 below the threshold, but may treat differently for reporting purposes contributions
30 below the threshold that are made in different modes and in different settings.

31 (b) Statements shall reflect anything of value paid for or contributed by any
32 person or individual, both as a contribution and expenditure. A political party executive
33 committee that makes an expenditure that benefits a candidate or group of candidates
34 shall report the expenditure, including the date, amount, and purpose of the expenditure
35 and the name of and office sought by the candidate or candidates on whose behalf the
36 expenditure was made. A candidate who benefits from the expenditure shall report the
37 expenditure or the proportionate share of the expenditure from which the candidate
38 benefitted as an in-kind contribution if the candidate or the candidate's committee has
39 coordinated with the political party executive committee concerning the expenditure.

40 (c) Best Efforts. – When a treasurer shows that best efforts have been used to
41 obtain, maintain, and submit the information required by this Article for the candidate
42 or political committee, any report of that candidate or committee shall be considered in
43 compliance with this ~~Article~~ Article and shall not be the basis for criminal prosecution
44 or the imposition of civil penalties, other than forfeiture of a contribution improperly

1 accepted under this Article. The State Board of Elections shall promulgate rules that
2 specify what are "best efforts" for purposes of this Article, adapting as it deems suitable
3 the provisions of 11 C.F.R. § 104.7. The rules shall include ~~the a~~ provision that if the
4 treasurer, after complying with this Article and the rules, does not know the occupation
5 of the contributor, it shall suffice for the treasurer to report "unable to obtain".

6 **SECTION 5.1.** G.S. 163-278.9(g) reads as rewritten:

7 "(g) Any report filed under subsection (e) of this section must contain all the
8 information required by ~~G.S. 163-278.8 or~~ G.S. 163-278.11, notwithstanding that the
9 federal law may set a higher reporting threshold."

10 **SECTION 5.2.** G.S. 163-278.14(a) reads as rewritten:

11 "(a) No individual, political committee, or other entity shall make any
12 contribution anonymously, except as provided in G.S. ~~163-278.8(d), 163-278.11(a1),~~ or
13 in the name of another. No candidate, political committee, referendum committee,
14 political party, or treasurer shall knowingly accept any contribution made by any
15 individual or person in the name of another individual or person or made anonymously
16 except as provided in G.S. ~~163-278.8(d), 163-278.11(a1).~~ If a candidate, political
17 committee, referendum committee, political party, or treasurer receives anonymous
18 contributions or contributions determined to have been made in the name of another, he
19 shall pay the money over to the Board, by check, and all such moneys received by the
20 Board shall be deposited in the Civil Penalty and Forfeiture Fund of the State of North
21 Carolina."

22 **SECTION 6.** G.S. 163-278.15 reads as rewritten:

23 "**§ 163-278.15. No acceptance of contributions made by corporations, foreign and**
24 **domestic, domestic, or other prohibited sources.**

25 No candidate, political committee, political party, or treasurer shall accept any
26 contribution made by any corporation, foreign or domestic, regardless of whether such
27 corporation does business in the State of North ~~Carolina.~~ Carolina, or made by any
28 business entity, labor union, professional association, or insurance company. This
29 section does not apply with regard to entities permitted to make contributions by
30 G.S. 163-278.19(f)."

31 **SECTION 7.** G.S. 163-278.7 reads as rewritten:

32 "**§ 163-278.7. Appointment of political treasurers.**

33 (a) Each candidate, political committee, and referendum committee shall appoint
34 a treasurer and, under verification, report the name and address of the treasurer to the
35 Board. A candidate may appoint himself or any other individual, including any relative
36 except his spouse, as his treasurer, and, upon failure to file report designating a
37 treasurer, the candidate shall be concluded to have appointed himself as treasurer and
38 shall be required to personally fulfill the duties and responsibilities imposed upon the
39 appointed treasurer and subject to the penalties and sanctions hereinafter provided.

40 (b) Each appointed treasurer shall file with the Board at the time required by
41 G.S. 163-278.9(a)(1) a statement of organization that includes:

42 (1) The Name, Address and Purpose of the Candidate, Political
43 Committee, or Referendum Committee. – When the political
44 committee or referendum committee is created pursuant to

1 G.S. 163-278.19(b), the name shall be or include the name of the
2 corporation, insurance company, business entity, labor union or
3 professional association whose officials, employees, or members
4 established the committee. When the political committee or
5 referendum committee is not created pursuant to G.S. 163-278.19(b),
6 the name shall be or include the economic interest, if identifiable,
7 principally represented by the committee's organizers or intended to be
8 advanced by use of the committee's receipts.

- 9 (2) The names, addresses, and relationships of affiliated or connected
10 candidates, political committees, referendum committees, political
11 parties, or similar organizations;
- 12 (3) The territorial area, scope, or jurisdiction of the candidate, political
13 committee, or referendum committee;
- 14 (4) The name, address, and position with the candidate or political
15 committee of the custodian of books and accounts;
- 16 (5) The name and party affiliation of the candidate(s) whom the
17 committee is supporting or opposing, and the office(s) involved;
- 18 (5a) The name of the referendum(s) which the referendum committee is
19 supporting or opposing, and whether the committee is supporting or
20 opposing the referendum;
- 21 (6) The name of the political committee or political party being supported
22 or opposed if the committee is supporting the ticket of a particular
23 political or political party;
- 24 (7) A listing of all banks, safety deposit boxes, or other depositories used,
25 including the names and numbers of all accounts maintained and the
26 numbers of all such safety deposit boxes used, provided that the Board
27 shall keep any account number included in any report filed after March
28 1, 2003, and required by this Article confidential except as necessary
29 to conduct an audit or investigation, except as required by a court of
30 competent jurisdiction, or unless confidentiality is waived by the
31 treasurer. Disclosure of an account number in violation of this
32 subdivision shall not give rise to a civil cause of action. This limitation
33 of liability does not apply to the disclosure of account numbers in
34 violation of this subdivision as a result of gross negligence, wanton
35 conduct, or intentional wrongdoing that would otherwise be
36 actionable.
- 37 (8) The name or names and address or addresses of any assistant treasurers
38 appointed by the treasurer. Such assistant treasurers shall be authorized
39 to act in the name of the treasurer, candidate, political committee, or
40 referendum committee ~~who and~~ shall be fully responsible for any act
41 or acts committed by ~~an the~~ assistant treasurer, treasurer, and the ~~The~~
42 treasurer shall be fully liable for any violation of this Article
43 committed by any assistant treasurer; and

1 (9) Any other information which might be requested by the Board that
2 deals with the campaign organization of the candidate or referendum
3 committee.

4 (c) Any change in information previously submitted in a statement of
5 organization shall be reported to the Board within a 10-day period following the change.

6 (d) A candidate, political committee or referendum committee may remove his or
7 its treasurer. In case of the death, resignation or removal of his or its treasurer before
8 compliance with all obligations of a treasurer under this Article, such candidate,
9 political committee or referendum committee shall appoint a successor within 10 days
10 of the vacancy of such office, and certify the name and address of the successor in the
11 manner provided in the case of an original appointment.

12 (e) Every treasurer of a referendum committee shall receive, prior to every
13 election in which the referendum committee is involved, training from the State Board
14 of Elections as to the duties of the office, including the requirements of
15 G.S. 163-278.13(e1), provided that the treasurer may designate an employee or
16 volunteer of the committee to receive the training.

17 ~~The State Board of Elections shall provide training for every~~Every treasurer
18 of a political committee, ~~prior to the election in which the political committee is~~
19 ~~involved, committee shall participate in training~~ as to the duties of the office, ~~office~~
20 ~~within three months of appointment and at least once every four years thereafter.~~ The
21 State Board of Elections shall provide ~~each treasurer with a CD-ROM, DVD, videotape,~~
22 ~~or other electronic document containing the training~~ as to the duties of the office, ~~office~~
23 ~~in person, through~~ and shall conduct regional seminars for ~~in person training.~~ seminars,
24 and through interactive electronic means. The treasurer may designate an assistant
25 treasurer to participate in the training, if one is named under subdivision (b)(8) of this
26 section. The treasurer may choose to participate in training prior to each election in
27 which the political committee is involved. All such training shall be free of charge to the
28 treasurer, treasurer and assistant treasurer."

29 **SECTION 8.** G.S. 163-278.9 is amended by adding a new subsection to
30 read:

31 "(k) All reports under this section must be filed by a treasurer or assistant treasurer
32 who has completed all training as to the duties of the office required by
33 G.S. 163-278.7(f)."

34 **SECTION 9.** Sections 1 through 6 of this act become effective January 1,
35 2007, and apply to all contributions made and accepted on and after that date. The
36 repeal of G.S. 163-278.20 is not effective retroactively and shall not be deemed to
37 render lawful or unlawful any action occurring before its effective date. Sections 7 and
38 8 of this act become effective October 1, 2006. The remainder of this act is effective
39 when it becomes law.