

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 1230

Short Title: Reporting of EC and IE. (Public)

Sponsors: Representatives Martin, Lewis, and Ross (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Elections.

June 27, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO ALTER THE REPORTING SCHEDULE FOR INDEPENDENT
3 EXPENDITURES AND ELECTIONEERING COMMUNICATIONS TO PROVIDE
4 INFORMATION IN A TIMELY FASHION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 163-278.12 reads as rewritten:

7 "**§ 163-278.12. Special reporting of contributions and independent expenditures.**

8 (a) Subject to G.S. 163-278.39 and G.S. 163-278.14, individuals and other entities not
9 otherwise prohibited from doing so may make independent expenditures. In the event an
10 individual, person, or other entity making independent expenditures but not otherwise required
11 to report them makes independent expenditures in excess of one hundred dollars (\$100.00), that
12 individual, person, or entity shall file a statement of such independent expenditure with the
13 appropriate board of elections in the manner prescribed by the State Board of Elections.

14 (b) ~~Any~~ Subject to subsections (d) and (e) of this section, any person or entity other
15 than an individual that is permitted to make contributions but is not otherwise required to report
16 them shall report each contribution in excess of one hundred dollars (\$100.00) with the
17 appropriate board of elections in the manner prescribed by the State Board of Elections.

18 (c) In assuring compliance with subsections (a) and (b) of this section, the State Board
19 of Elections shall require the identification of each person or entity making a donation of more
20 than one hundred dollars (\$100.00) to the entity filing the report if the donation was made to
21 further the reported independent expenditure or contribution. If the donor is an individual, the
22 statement shall also contain the principal occupation of the donor. The "principal occupation of
23 the donor" shall mean the same as the "principal occupation of the contributor" in
24 G.S. 163-278.11.

25 (d) Contributions or independent expenditures required to be reported under this section
26 shall be reported within ~~30 days~~ 10 days after they exceed one hundred ~~dollars (\$100.00)~~ or ~~10~~
27 ~~days before an election the contributions or independent expenditures affect, whichever occurs~~
28 ~~earlier.~~ dollars (\$100.00).

29 (e) ~~The State Board of Elections shall require subsequent reporting of independent~~
30 ~~expenditures according to the same schedule required of political committees under~~
31 ~~G.S. 163-278.9(a).~~ In addition to reports under subsection (d) of this section, if an individual
32 or person that makes incurs a cost of five thousand dollars (\$5,000) or more for making an
33 independent expenditure on or after the day the no-excuse absentee ballot period begins under
34 G.S. 163-227.2 but before an election, that individual or person shall disclose by report to the
35 State Board of Elections within 48 hours of incurring an expense of five thousand dollars



~~(\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making an independent expenditure before an election but after the period covered by the last report due before that election the cost. An individual or person that receives a donation of five thousand dollars (\$5,000) or more on or after the day the no-excuse absentee ballot period begins under G.S. 163-227.2 but before an election for making an independent expenditure shall also disclose by report to the State Board of Elections within 48 hours of receiving the donation.~~

(f) For the purposes of subsection (c) of this section, a donation to the person or entity making the independent expenditure is deemed to have been donated to further the independent expenditure if any of subdivisions (1) through (4) of this subsection apply. For purposes of this subsection, the "filer" is the person or entity making the independent expenditure and responsible for filing the report, or an agent of that person or entity. For purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

- (1) The donor designates, requests, or suggests that the donation be used for an independent expenditure or for multiple independent expenditures, and the filer agrees to use the donation for an independent expenditure.
- (2) The filer expressly solicited the donor for a donation for making or paying for an independent expenditure.
- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an independent expenditure.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make independent expenditures with the donation.

A donation shall not be deemed to be made to further an independent expenditure if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an independent expenditure. In determining the amount of a donation that was made to further any particular independent expenditure, there shall be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the independent expenditure covered by the report.

Subdivisions (1) through (4) of this subsection shall also apply to reports made under subsection (c) of this section concerning contributions. However, nothing in this section shall be interpreted to limit the effect of the prohibition on making contributions in the name of another in G.S. 163-278.14.

(g) All reports required by this section shall be filed according to rules adopted by the State Board of Elections. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board of Elections shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person."

SECTION 2. G.S. 163-278.12C reads as rewritten:

"§ 163-278.12C. Special reporting of electioneering communications.

(a) Every individual or person that incurs an expense for the direct costs of producing or airing electioneering communications aggregating in excess of five thousand dollars (\$5,000) shall file the following reports with the appropriate board of elections in the manner prescribed by the State Board of Elections:

- (1) The identification of the individual or person incurring the expense, of any individual or person sharing or exercising direction or control over the activities of that individual or person, and of the custodian of the books and accounts of the individual or person incurring the expense.

- 1 (2) The principal place of business of the person incurring the expense, if not an
2 individual.
- 3 (3) The amount of each expense incurred during the period covered by the
4 statement and the identification of the individual or person to whom the
5 expense was incurred.
- 6 (4) The elections to which the electioneering communications pertain, if any,
7 and the names, if known, of the candidates identified or to be identified.
- 8 (5) The names and addresses of all entities that donated, to further an
9 electioneering communication or electioneering communications, funds or
10 anything of value whatsoever in an aggregate amount of more than one
11 thousand dollars (\$1,000) during the reporting period. If the donor is an
12 individual, the statement shall also contain the principal occupation of the
13 donor. The "principal occupation of the donor" shall mean the same as the
14 "principal occupation of the contributor" in G.S. 163-278.11.

15 (b) The ~~initial~~ report shall be filed with the State Board no later than the 10th day
16 following the day the individual or person incurs an expense for the direct costs of producing or
17 airing an electioneering communication. ~~The State Board shall require subsequent reporting~~
18 ~~according to the same schedule required of political committees under G.S. 163-278.9(a). An In~~
19 addition to the reports required under subsection (f) of this section, an individual or person that
20 produces or airs an electioneering communication shall disclose by report to the State Board
21 within 48 hours of incurring an expense of five thousand dollars (\$5,000) or more or receiving
22 a donation of one thousand dollars (\$1,000) or more for making an electioneering
23 communication on or after the day no-excuse absentee ballot period begins under
24 G.S. 163-227.2 but before an election but after the period covered by the last report due before
25 that election. An individual or person that receives a donation of five thousand dollars (\$5,000)
26 or more on or after the day the no-excuse absentee ballot period begins under G.S. 163-227.2
27 but before an election for making an electioneering communication shall also disclose by report
28 to the State Board of Elections within 48 hours of receiving the donation.

29 (c) For the purposes of subdivision (a)(5) of this section, a donation to the person or
30 entity making the electioneering communication is deemed to have been donated to further the
31 electioneering communication if any of subdivisions (1) through (4) of this subsection apply.
32 For purposes of this subsection, the "filer" is the person or entity making the electioneering
33 communication and responsible for filing the report, or an agent of that person or entity. For
34 purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or
35 other thing of value, or an agent of that person or entity.

- 36 (1) The donor designates, requests, or suggests that the donation be used for an
37 electioneering communication or electioneering communications, and the
38 filer agrees to use the donation for that purpose.
- 39 (2) The filer expressly solicited the donor for a donation for making or paying
40 for an electioneering communication.
- 41 (3) The donor and the filer engaged in substantial written or oral discussion
42 regarding the donor's making, donating, or paying for an electioneering
43 communication.
- 44 (4) The donor or the filer knew or had reason to know of the filer's intent to
45 make electioneering communication with the donation.

46 A donation shall not be deemed to be made to further an electioneering communication if
47 the donation was a commercial transaction occurring in the ordinary course of business
48 between the donor and the filer unless there is affirmative evidence that the amounts were
49 donated to further an electioneering communication. In determining the amount of a donation
50 that was made to further any particular electioneering communication, there shall be excluded

1 any amount that was designated by the donor with respect to a different election than the
2 election that is the subject of the electioneering communication covered by the report.

3 (d) All reports required by this section shall be filed according to rules adopted by the
4 State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report
5 shall be filed electronically. The State Board shall provide the software necessary to file the
6 electronic report to any individual or person required to file an electronic report at no cost to
7 that individual or person.

8 (e) Subject to subsection (f) of this section, any person or entity other than an individual
9 that is permitted to make contributions but is not otherwise required to report them shall report
10 each contribution in excess of one hundred dollars (\$100.00) with the appropriate board of
11 elections in the manner prescribed by the State Board of Elections.

12 (f) Contributions or electioneering communications required to be reported under this
13 section shall be reported within 10 days after they exceed one hundred dollars (\$100.00)."

14 **SECTION 3.** This act becomes effective October 1, 2012, and applies to
15 contributions and expenditures made on or after that date.