

March 23, 2009

**H 748. ELECTIONEERING AT EARLY VOTING SITES.** Filed 3/23/09. *TO FORBID COUNTY BOARDS OF ELECTIONS FROM DESIGNATING EARLY VOTING SITES IN NONPUBLIC BUILDINGS THAT DO NOT ALLOW ELECTIONEERING, EXCEPT THAT ELECTIONEERING MAY BE RESTRICTED TO ONE OR MORE LOCATIONS ON THE PROPERTY.*

Amends GS 163-166.4(b) to provide that the subsection (providing for a county board of elections to enter into an agreement with the owners or managers of a nonpublic building to use the building as a voting place on the condition that described election-related activity is not permitted on the property adjacent to the buffer zone if specified conditions are found to exist) does not apply to nonpublic buildings used as one-stop early voting sites, except that an agreement may be reached as to those sites that limits election-related activity to one or more locations on the property that are adjacent to the buffer zone. Effective with respect to elections occurring on or after September 1, 2009.

**Intro. by Ross, Stam, Weiss, Dollar.**

GS 163

July 7, 2010

**H 748. CITIZENS UNITED RESPONSE (NEW).** Filed 3/23/09. Senate committee substitute deletes all the provisions of the 1st edition and replaces it with *AN ACT TO DEFINE COORDINATION AND COORDINATED EXPENDITURE; TO REQUIRE REPORTING OF AND DISCLOSURES ON INDEPENDENT EXPENDITURES FOR POLITICAL ADVERTISEMENTS THAT IS THE SAME AS THAT OF POLITICAL COMMITTEES; TO REPEAL ARTICLES 22E AND 22F OF CHAPTER 163 OF THE GENERAL STATUTES; AND TO CLARIFY THE EXEMPTION OF POLITICAL EXPENDITURES TO THE DEFINITION OF "GIFT" UNDER THE STATE GOVERNMENT ETHICS ACT AND THE MISCELLANEOUS REPORTING UNDER CHAPTER 120C OF THE GENERAL STATUTES.*

Amends GS 163-278.6 of Article 22A, Chapter 163 (regulating contributions and expenditures in political campaigns) to add definitions for the following terms as they relate to political campaigns: (1) coordination, (2) coordinated expenditure, (3) electioneering communication (both defines the term and specifies what is not considered to be electioneering communication), (4) mass mailing, and (5) telephone bank. Amends the definition for *independently expend or independent expenditure* to provide that they are expenditures to support or oppose a candidate's nomination or election that is not a coordinated expenditure. Makes additional conforming and technical changes to the definitions in Article 22A.

Under current law, the State Board of Elections (Board) requires the identification of each entity that makes a donation of more than \$100 to an entity filing a report of contributions received if the donation was made to further the reported independent expenditure or contribution. Amends GS 163-278.12 (special reporting of contributions and independent expenditures) to require that if the donor is an individual, the contribution statement must also contain the *principal occupation of the donor* which has the same meaning as *principal occupation of the contributor* in GS 163-278.11.

Provides that *independent expenditures and contributions* (was, contributions and expenditures) that are required to be reported, must be reported within 30 days after they exceed \$100 or 10 days before an election that the contributions or independent expenditures affect, whichever comes first.

Directs the Board to require subsequent reporting of independent expenditures according to the same schedule as political committees under GS 163-278.9(a). Requires an individual or person who makes an independent expenditure of \$10,000 or more, or receives a donation of \$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, to report to the Board within 48 hours. Provides additional guidelines governing when donations made to the entity making the independent expenditure is deemed to have been made to further independent expenditures. Specifies that all reports regarding contributions and independent expenditures are to be filed according to rules adopted by the Board and that electronic reports are to be filed if the expense incurred is greater than \$10,000.

Enacts new GS 163-278.12C regarding special reporting of electioneering communication, meaning any broadcast, cable, internet, or satellite communication, or mass mailing, or telephone bank that refers to a clearly identified candidate for elected office, and is aired or transmitted within 60 days of the time set for absentee voting to begin for that office. Requires that the electioneering communication be received by (1) 50,000 or more individuals in the state in an election for a statewide office or by 7,500 or more individuals in any other election, in the form of broadcast, cable, internet, or satellite communications, or (2) 20,000 or more households cumulative per election in a statewide election or 2,500 households, cumulative per election in any other election in the form of mass mailing or telephone bank. Requires specified reports to be filed by every individual or person that incurs an expense for the direct costs of producing or airing electioneering communications in the aggregate excess of \$5,000. Provides time span for filing reports with the Board following the incurrence of an expense for an electioneering communication and provides additional guidelines governing electioneering communication. Specifies that all reports regarding electioneering communication donations and expenditures are to be filed according to rules adopted by the Board and that electronic reports are to be filed if the expense incurred is greater than \$10,000.

Amends GS 163-278.17 to provide criteria governing statements of media outlets regarding political advertising. Directs a media outlet to require written authority for each independent expenditure or electioneering communication from each individual or entity making or authorizing an independent expenditure or electioneering communication. Provides that all such written authorizations are to be considered public records and copies are to be made available for inspection during normal business hours. Specifies identification information to be contained in the written authorization.

Amends GS 163-278.19 to delete language that makes it unlawful except as provided in subsections (a2), (b), (d), (e), (f), and (g) of the statute for a corporation, business entity, labor union, professional association or insurance company to directly or indirectly make any expenditure to support or oppose the nomination or election of a clearly identified candidate. Makes conforming changes to this statute.

Amends GS 163-278.22 to require the Board to establish a process for determining, upon the request of the individual or person producing the communication, whether the communication is an expenditure, an independent expenditure, or an electioneering communication before the communication airs or is distributed. Permits the responsibility for making the determination to be delegated to the Executive Director (ED), but requires the Board to require a written determination by the ED that includes stated findings and an opportunity for immediate appeal to the Board from the ED's determination.

Amends the definition of print media in GS 163-278.38Z to remove the requirement that a mass mailing be a mailing of more than 500 pieces.

Amends GS 163-278.39 to expand the basic disclosure requirements for all political advertisements (was, all political campaign advertisements) to apply to independent expenditures and electioneering communications. Also expands the conditions that must be met by the advertisement sponsor. Amends GS 163-278.39A regarding disclosure requirements for television and radio advertisements supporting or opposing the nomination or election of one or more clearly identified candidates. Expands the scope of the statute to any political advertisement (was, political campaign advertisement) on the radio or television. Requires a sponsor that is a corporation with a purpose of promoting social, educational, or political ideas, to include a legible listing on screen informing the viewer how to obtain additional information on the sponsor and sponsor's donors. Provides minimal language that the notice must contain. Requires television ads that are electioneering communications to contain a disclosure statement that at minimum identifies the individual making the statement by name, states that the individual is opposing or supporting the candidate, identifies the candidate by name, and identifies the office that the candidate is seeking. Provides additional guidelines regarding disclosure statement by sponsors other than candidates, campaign committees, political action committees, or political organizations. Makes similar changes to disclosure requirements for radio. Amends the size requirements for the disclosure. Clarifies that candidate for state or local office that violate state law's disclosure requirements and are held personally liable for any payment of damages or attorney's fees cannot use or be reimbursed by funds from the candidate's campaign committee.

Repeals Article 22E (Electioneering Communications) and Article 22F (Mass Mailings and Telephone Banks: Electioneering Communications) of GS Chapter 163.

Amends GS 138A-3(15) to provide that anything of value (was, campaign contributions) properly reported (was, properly received and reported) as required under Article 22A of Chapter 163 is not considered a gift.

Makes additional conforming changes. Provides that all of the above provisions become effective upon the preclearance by the United States Department of Justice.

Amends GS 163-293(b) to prohibit including a space for write-in votes on the ballot for a runoff election. Effective January 1, 2011, and applies to elections held on or after that date.

Provides that the provisions of this act are severable, if any provision of this act or its application is held to be invalid, the invalidity does not affect the other provisions or applications of the act that can be given effect without the invalid provisions or applications.

July 8, 2010

**H 748. CITIZENS UNITED RESPONSE.** Filed 3/23/09. Senate amendments make the following changes to 3rd edition.

Amendment #1 rewrites GS 163-278.17(d)(2) to correct a citation. Also amends GS 163-278.39(b) to specify that a political advertisement for television broadcast must have a visual disclosure legend that is 4% of vertical picture height (was, must constitute 32 scan lines in size).

Amendment #2 amends GS 163-278.12 to clarify that the provisions regarding special reporting of contributions and independent expenditures are applicable to persons, as well as individuals and entities. Inserts *persons* throughout the statute. Makes similar changes to GS 163-278.12C concerning special reporting of electioneering communications. Also amends proposed subsection (d) to GS 163-278.17 to provide that each media outlet is to require written authority for an independent expenditure or electioneering communication from each individual, *person*, or entity making or authorizing the independent expenditure or electioneering communication. Requires that the authorization contain the name and address of the individual, *person*, or entity making the independent expenditure or electioneering communication. Amends GS 163-278.19(f) to provide that the statute does not prohibit a contribution to a candidate or political committee by a *person* or an entity that meets the criteria specified in subsection (f).

Amendment #3 makes a clarifying change to proposed GS 163-278.6(8k)f by deleting extraneous "or." Expands the provision to provide that *electioneering communication* also does not include polls that are contracted for by a person to be conducted by an organization whose primary purpose is to conduct or publish public opinion polls (was, only exempted a public opinion poll conducted by a news medium or by an organization). Provides that the exemption from being defined as *electioneering communication* does not apply to a *push poll* (a political campaign technique in which an individual or organization attempts to influence or alter the poll respondent's view under the guise of conducting a public opinion poll).

Amendment #4 deletes Internet communication from the definition for *electioneering communication*.

July 9, 2010

**H 748. CITIZENS UNITED RESPONSE.** Filed 3/23/09. Senate amendment makes the following changes to 3rd edition, as amended.

Amendment #7 amends GS 163-278.12 (special reporting of contribution and independent expenditures) and GS 163-278.12C (special reporting of electioneering communications) to require that the required report be filed electronically when the expense incurred is greater than \$5,000 (was \$10,000).

Amendment #10 also amends GS 163-278.12 and GS 163-278.12C to require a report within 48 hours of incurring an expense of \$5,000 (was \$10,000) or more. Amends the title to include reference to repealing the unconstitutional ban on corporate independent expenditures, requiring disclosures on electioneering communication advertisements, and clarifying no write in candidates are on a nonpartisan runoff election ballot.

August 12, 2010

**SL 2010-170 (H 748). CITIZENS UNITED RESPONSE.** AN ACT TO DEFINE COORDINATION AND COORDINATED EXPENDITURE; TO REQUIRE REPORTING OF AND DISCLOSURES ON INDEPENDENT EXPENDITURES FOR POLITICAL ADVERTISEMENTS THAT IS THE SAME AS THAT OF POLITICAL COMMITTEES; TO REPEAL ARTICLES 22E AND 22F OF CHAPTER 163 OF THE GENERAL STATUTES; TO CLARIFY THE EXEMPTION OF POLITICAL EXPENDITURES TO THE DEFINITION OF "GIFT" UNDER THE STATE GOVERNMENT ETHICS ACT AND THE MISCELLANEOUS REPORTING UNDER CHAPTER 120C OF THE GENERAL STATUTES; TO REPEAL THE UNCONSTITUTIONAL BAN ON CORPORATE INDEPENDENT EXPENDITURES; TO REQUIRE DISCLOSURES ON ELECTIONEERING COMMUNICATION ADVERTISEMENTS; AND TO CLARIFY NO WRITE-IN CANDIDATES ON A NONPARTISAN RUNOFF ELECTION BALLOT. Summarized in *Daily Bulletin* 7/7/10, 7/8/10, and 7/9/10. Enacted August 2, 2010. Sections 1–15 are effective upon preclearance by the U.S. Department of Justice. The remainder is effective August 2, 2010.