

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 708
PCSR-028

SHORT TITLE: Election Act of 1998 (Original Title: Stand By Your Ad)

SPONSOR(S): Proposed Committee Substitute from House Committee on Election Laws
and Campaign Reform
Original Sponsors: Cooper, Conder, Plyler, Horton and Hartsell

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 1998-99 **FY 1999-00** **FY 2000-01** **FY 2001-02** **FY 2002-03**

REVENUES
EXPENDITURES

**PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED:** Board of Elections, Administrative Office of the Courts, Department
o
Correction

EFFECTIVE DATE: February 1, 1999

BILL SUMMARY: AN ACT TO REQUIRE CERTAIN DISCLOSURES ON POLITICAL ADVERTISEMENTS TO BE MADE BY THEIR SPONSORS; TO REVISE THE DEFINITIONS OF "POLITICAL COMMITTEE," "CONTRIBUTION," "EXPENDITURE," AND "POLITICAL PURPOSE" TO CONFORM TO FEDERAL COURT DECISIONS AND TO ADD DEFINITIONS OF "INDEPENDENT EXPENDITURE" AND "EXPRESS ADVOCACY"; TO CONFORM STATE LAW TO FEDERAL COURT DECISIONS CONCERNING INDEPENDENT EXPENDITURES BY CERTAIN TYPES OF CORPORATIONS; TO RESTORE 1996 CAMPAIGN REPORTING SCHEDULE WITH A \$250 THRESHOLD FOR CONTRIBUTOR IDENTIFICATION; AND TO CHANGE THE DEADLINES AND PROCEDURES BY WHICH NEW PARTIES MAY GAIN BALLOT ACCESS AND CHOOSE CANDIDATES, TO ALLOW VOTERS TO RETAIN OFFICIAL AFFILIATION WITH AN EXPIRED PARTY, TO MAKE CERTAIN CHANGES TO EQUALIZE CANDIDACY REQUIREMENTS, AND TO REMOVE CERTAIN COURT-INVALIDATED REQUIREMENTS FROM THE PETITION PROCEDURES FOR NEW PARTIES, UNAFFILIATED CANDIDATES, AND WRITE-IN CANDIDATES.

Disclosure requirements. Adds new Part 1A (Disclosure Requirements for Media Advertisements) to Article 22A of GS Chapter 163, which: (1) sets out basic disclosure requirements for all political campaign advertisements, making it unlawful (**Class 2 Misdemeanor, as under existing law**) to sponsor an ad that constitutes an “expenditure” or “contribution” required to be disclosed under the article unless specified conditions are met; (2) sets size requirements for print media disclosure statements; (3) **makes it a Class 1 misdemeanor to misrepresent the sponsorship or authorization of a print media or radio or television ad**; (4) establishes additional disclosure requirements for television ads supporting or opposing a specific ; (5) **gives a candidate who has complied with the disclosure requirements throughout a campaign a monetary remedy (which may include actual damages, treble damages, attorney fees) in a civil action against an opposing candidate or other sponsor of an ad for the office that violates the disclosure requirements** ; (6) explains the relationship between this act and the Federal Communications Act of 1934; (7) provides that television or radio outlets are not liable under this law for carrying political ads that fail to include disclosure requirements under the state law; (8) makes clear that nothing in the Part regarding disclosure requirements may be relied on or interpreted to create criminal liability for any person; (9) defines numerous relevant terms; (10) excludes from coverage of the disclosure requirements (a) an individual who makes uncoordinated independent expenditures aggregating less than \$1,000 in a political campaign or (b) an individual who incurs expenses with respect to a referendum; and (11) makes conforming amendments to GS 163-278.16 and 163-278.27(a).

Campaign finance law definitions. Narrows the definitions of political committee, political contribution, express advocacy, and permissible independent expenditures.

Restoration of reporting schedule; identification threshold. Amends GS 163-278.8(d) to raise from \$100 to \$250 the contribution level for those individual contributors whose names must be reported. Modifies GS 163-278.9 to require less frequent reports in various circumstances

Ballot access changes. (1) Amends GS 163-96 to provide that a new political party may participate in a statewide election only if the required petitions are filed with the State Board of Elections before noon on Dec. 31 (now, June 1) preceding the date of the election. Repeals provisions governing methods for determining validity of signatures on petitions to establish new political parties. Changes from two weeks to 15 business days the deadline for verification of signatures by county board of elections and allows county board to extend this deadline if it would be unduly burdensome to meet the deadline and the extension would not disadvantage the petitioners. (2) Amends GS 163-97.1 to allow voters who are registered with an expired political party to retain the affiliation if the party loses its status as a political party under GS 163-97. (3) Amends GS 163-98 (general election participation by new political party) to allow new political party to participate in municipal, county, and district, as well as state, congressional, and national elections at the first general election following qualification. Requires new political party to select candidates for first general election by primary election rather than by party convention. Adds new GS 163-100 allowing political party to be recognized for purposes of a presidential election only if the party meets the requirements of GS Ch. 160, Art. 9 except that the petition for recognition under GS 163-96(a)(2) must be filed before noon on the second Thursday in July before the general election. (4) Amends GS 163-107.1 to allow candidate in primary election for US Senate, Governor, Lt. Governor, state executive officer, Supreme Court justice, or Court of Appeals judge to submit petition signed by 2% of registered voters in lieu of paying filing fee. Allows candidates in county, municipal, and district primaries and in nonpartisan primaries and elections to submit petition signed by 4% of registered voters in lieu of paying filing fee. (5) Amends GS 163-122 (unaffiliated candidates nominated by petition) to require that petition in support of candidacy be filed by noon on the day of the first primary for the office (now, noon of last Friday in June). Adds new GS 163-122(d) to require unaffiliated candidates for presidential electors who comply with other provisions of GS 163-122 to qualify for ballot if petitions for candidacy are filed with State Board of Elections at least 75 days before general election. Amends GS 163-122(a)(1) and 163-123(c)(1) to delete fee for verification of signatures on petition. (Based on *Daily Bulletin*, Institute of Government, September 1998 and Bill Summary by Bill Gilkeson, Committee Counsel)

ASSUMPTIONS AND METHODOLOGY:

SB 708 PCSRR-028 includes many changes in definitions, deadlines, requirements for disclosure and provisions for ballot access affecting political parties and candidates. While these changes will impact the work of the Board of Elections, there is no indication that the modifications involve a significant increase or decrease in workload. Therefore, no fiscal impact is predicted on the Board of Elections.

The Bill does include two changes involving criminal penalties (in bold in Bill Summary).

(1) Existing law specifies that violation of the disclosure requirement is a Class 2 Misdemeanor. Section 2 of the Bill includes several changes to the disclosure requirements. However, there is nothing to indicate these changes would significantly affect the frequency of violation, prosecution or conviction. The Administrative Office of the Courts does not have an offense code for violation of disclosure requirements, indicating there have not been very many instances of individuals charged with this offense. (The Board of Elections does not have data on the frequency of violations.) An active sentence (of up to 60 days) is allowed for a Class 2 Misdemeanor only if there are at least 5 prior convictions. For these reasons, no fiscal impact is predicted on the Administrative Office of the Courts or on the Department of Correction.

(2) The Bill creates a new Class 1 Misdemeanor offense for *misrepresenting* who has paid for a political ad. Since this is a new offense, there are no data to project impact on the court system or Department of Correction. However, given there have been few instances of other violations of disclosure laws, there is nothing to suggest a significant impact on either of these agencies.

The sentence for Class 1 Misdemeanors can include an active sentence of up to 45 days if there is at least 1 prior conviction and up to 120 days if there are 5 or more prior convictions. This makes it highly unlikely the new penalty would have any impact on the state prison system since only sentences of at least 90 days are served in state prisons.

Senate Bill 708 also specifies that a candidate who complies with disclosure requirements can bring civil actions against an entity who does not and seek damages and attorney fees. This could involve additional work for the Administrative Office of the Courts. However, there is nothing to indicate that these instances would be frequent enough to constitute a significant impact.

TECHNICAL CONSIDERATIONS: none

FISCAL RESEARCH DIVISION

733-4910

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