

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-419
SENATE BILL 1002**

**AN ACT TO STRENGTHEN THE CAMPAIGN ENFORCEMENT AND
DISCLOSURE LAWS.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.34 reads as rewritten:

"§ 163-278.34. ~~Filings; penalty for late filings. Civil penalties.~~

(a) Civil Penalties for Late Filing. – Except as provided in G.S. ~~163-278.9, 163-278.9~~ and G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

- (1) Two hundred fifty dollars (\$250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars (\$10,000); and
- (2) Fifty dollars (\$50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars (\$500.00).

The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

(b) Civil Penalties for Illegal Contributions. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution in violation of this Article, then that entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a civil penalty and the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the unlawful contribution or expenditure involved in the violation. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) Civil Remedies Other Than Penalties. – The State Board of Elections, in lieu of or in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

- (1) Issue an order requiring the violator to cease and desist from the violation found.
- (2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.

- (3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.
- (4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.
- (5) Publicly reprimand the violator for the violation.

(d) Facts in Mitigation. – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board of Elections stating the facts in mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

~~(a1)~~ (e) Calculation and Assessment. – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. ~~Consistent with G.S. 115C 437, the State Controller~~ The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the ~~County School Fund in the county in which the person charged with the violation resides. The State Controller~~ Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the ~~County School~~ Civil Penalty and Forfeiture Fund. Monies set aside for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

~~(b) The State Board of Elections may waive a late penalty if it determines there is reasonable cause.~~

(f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board of Elections shall notify and consult with the district attorney who would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the violation."

SECTION 2. G.S. 163-278.27 reads as rewritten:

"§ 163-278.27. ~~Penalty for violations; Criminal penalties; duty to report and prosecute.~~

(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who intentionally violates the applicable provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor. The statute of limitations shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

- (1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the

prosecutorial district in which the candidate for nomination or election resides;

- (2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;
- (3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and
- (4) In the case of a person or any group of individuals: report to the district attorney or district attorneys [of] the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

(c) Upon receipt of such a report from the Board, the appropriate district attorney shall prosecute the individual or persons alleged to have violated a section or sections of this Article.

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge."

SECTION 3. G.S. 163-278.40B reads as rewritten:

"§ 163-278.40B. Campaign report; partisan election.

In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.
- (1a) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.
- (2) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.
- (3) Repealed by Session Laws 1985, c. 164, s. 2, ~~effective January 1, 1986.~~
- (4) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 4. G.S. 163-278.40C reads as rewritten:

"§ 163-278.40C. Campaign report; nonpartisan election and runoff.

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a)(4) and 163-293, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.
- (1a) Pre-election Report. – The treasurer shall file a report with the board ~~no later than 10 days prior to~~ before the election.
- (1b) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.
- (2) Repealed by Session Laws 1985, c. 164, s. 3, effective January 1, 1986.3.
- (3) Annual Report. Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such those~~ contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 5. G.S. 163-278.40D reads as rewritten:

"§ 163-278.40D. Campaign report; nonpartisan primary and elections.

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and 163-294, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.
- (1a) Pre-primary and Pre-election Report. Reports. – The treasurer shall file a report 10 days ~~prior to~~ before the primary if the candidate is in a primary ~~or and~~ 10 days ~~prior to~~ before the election, ~~if the candidate is not in a primary election.~~
- (2) Repealed by Session laws 1985, c. 164, s. 4, effective January 1, 1986.4.
- (3) Annual Report. Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~those~~ contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 6. G.S. 163-278.40E reads as rewritten:

"§ 163-278.40E. Campaign report; nonpartisan plurality.

In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and 163-292, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.
- (1a) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election.
- (2) Repealed by Session Laws 1985, c. 164, s. 5, effective January 1, 1986.5.
- (3) Annual Report. Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such those~~ contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last

Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 7. G.S. 163-278.9(j) reads as rewritten:

"(j) Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars (\$5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

- (1) A candidate for statewide office;
- (2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office;
- (3) A political committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

SECTION 8. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:12 a.m. this 22nd day of September, 2001