

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H

D

HOUSE BILL 700  
PROPOSED COMMITTEE SUBSTITUTE H700-CSST-46 [v.3]  
07/02/2019 03:53:03 PM

Short Title: Digital Campaign Finance Disclosure Changes.

(Public)

Sponsors:

Referred to:

April 11, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO DEFINE AND REGULATE DIGITAL COMMUNICATION IN  
3 ELECTIONEERING COMMUNICATIONS AND ADVERTISING DISCLOSURES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 163A-1411 is amended by adding a new subdivision to read:

6 "(81) The term "qualified digital communication" means any communication placed  
7 or promoted on a public-facing Web site, Web application, or digital  
8 application, including a social network, advertising network, or search engine,  
9 when a fee is required to be paid for such placement or promotion."

10 SECTION 2. G.S. 163A-1411, as amended by S.L. 2018-144 and S.L. 2018-146,  
11 reads as rewritten:

12 "§ 163A-1411. Definitions.

13 When used in this Article:

14 ...

15 (41) The term "electioneering communication" means any broadcast, cable, or  
16 satellite communication, or mass mailing, or telephone ~~bank~~ ~~bank~~, or qualified  
17 digital communication that has all the following characteristics:

- 18 a. Refers to a clearly identified candidate for elected office.  
19 b. ~~In the case of the general election in November of the even-numbered~~  
20 ~~year is~~ Is aired or transmitted within 30 days of the election for that  
21 office.  
22 c. ~~May be received by either:~~ In the case that the communication, mass  
23 mailing, or telephone bank is not a qualified digital communication,  
24 may be received by the following:  
25 1. 50,000 or more individuals in the State in an election for  
26 statewide office or 7,500 or more individuals in any other  
27 election if in the form of broadcast, cable, or satellite  
28 communication.  
29 2. 20,000 or more households, cumulative per election, in a  
30 statewide election or 2,500 households, cumulative per  
31 election, in any other election if in the form of mass mailing or  
32 telephone bank.

33 (43) The term "electioneering communication" does not include any of the  
34 following:

- 35 a. A communication appearing in a news story, commentary, or editorial  
36 distributed through the facilities of any broadcasting station, unless



1 those facilities are owned or controlled by any political party, affiliated  
2 party committee, political committee, or candidate.

3 b. A communication that constitutes an expenditure or independent  
4 expenditure under this Article.

5 c. A communication that constitutes a candidate debate or forum  
6 conducted pursuant to rules adopted by the Board or that solely  
7 promotes that debate or forum and is made by or on behalf of the  
8 person sponsoring the debate or forum.

9 d. A communication made while the General Assembly is in session  
10 which, incidental to advocacy for or against a specific piece of  
11 legislation pending before the General Assembly, urges the audience  
12 to communicate with a member or members of the General Assembly  
13 concerning that piece of legislation or a solicitation of others as  
14 defined in G.S. 163A-250(a)(36) properly reported under Article 8 of  
15 this Chapter.

16 e. A communication that meets all of the following criteria:

- 17 1. Does not mention any election, candidacy, political party,  
18 opposing candidate, or voting by the general public.
- 19 2. Does not take a position on the candidate's character or  
20 qualifications and fitness for office.
- 21 3. Proposes a commercial transaction.

22 f. A public opinion poll conducted by a news medium, as defined in  
23 G.S. 8-53.11(a)(3), conducted by an organization whose primary  
24 purpose is to conduct or publish public opinion polls, or contracted for  
25 by a person to be conducted by an organization whose primary purpose  
26 is to conduct or publish public opinion polls. This sub-subdivision  
27 shall not apply to a push poll. For the purpose of this sub-subdivision,  
28 "push poll" shall mean the political campaign technique in which an  
29 individual or organization attempts to influence or alter the view of  
30 respondents under the guise of conducting a public opinion poll.

31 g. A communication made by a news medium, as defined in  
32 G.S. 8-53.11(a)(3), ~~if the communication is in~~  
33 ~~print.~~ G.S. 8-53.11(a)(3).

34 ..."

35 **SECTION 3.** G.S. 163A-1475(1) reads as rewritten:

36 "(1) "Advertisement" means any message appearing in the print media, on  
37 ~~television, or on radio~~ television or radio, or through a qualified digital  
38 communication that constitutes a contribution or expenditure ~~any of the~~  
39 following ~~under this Article.~~ Article:

40 a. A contribution.

41 b. An expenditure.

42 c. An independent expenditure."

43 **SECTION 4.** G.S. 163A-1476 reads as rewritten:

44 **"§ 163A-1476. Basic disclosure requirements for all political advertisements.**

45 (a) Basic Requirements. – It shall be unlawful for any sponsor to sponsor an  
46 advertisement ~~or an electioneering communication~~ (i) in the print media or media, (ii) on radio or  
47 television ~~television, or (iii) through a qualified digital communication that constitutes an~~  
48 expenditure, independent expenditure, electioneering communication, or contribution ~~unless~~  
49 such advertisement or electioneering communication complies with ~~required to be disclosed~~  
50 under this Article. ~~Article.~~ The sponsor of a qualified digital communication shall also comply  
51 with G.S. 163A-1478.

1        (a1) Legend Requirements. – All advertisements and electioneering communications  
2 described in subsection (a) of this section unless shall comply with all the following conditions  
3 are met: conditions:

- 4            (1) It bears the legend or includes the statement: "Paid for by \_\_\_\_ [Name of  
5 candidate, candidate campaign committee, political party organization,  
6 political action committee, referendum committee, individual, or other  
7 sponsor]." In television ~~advertisements,~~ advertisements or qualified digital  
8 communications, this disclosure shall be made by visual legend.
- 9            (2) The name used in the labeling required in subdivision (1) of this subsection is  
10 the name that appears on the statement of organization as required in  
11 G.S. 163A-1412(b)(1) or G.S. 163A-1424(a).
- 12            (3) In a print media advertisement or a qualified digital communication  
13 supporting or opposing the nomination or election of one or more clearly  
14 identified candidates, the sponsor ~~states shall state~~ whether it is authorized by  
15 a candidate. The visual legend in the advertisement or qualified digital  
16 communication shall state either "Authorized by [name of candidate],  
17 candidate for [name of office]" or "Not authorized by a candidate." This  
18 subdivision does not apply if the sponsor of the advertisement or  
19 electioneering communication is the candidate the advertisement or qualified  
20 digital communication supports or that candidate's campaign committee.
- 21            (4) In a print media ~~advertisement—~~ advertisements or qualified digital  
22 communications that ~~identifies—~~ identify a candidate the sponsor is opposing,  
23 the sponsor ~~shall disclose~~ disclose in the advertisement or qualified digital  
24 communication the name of the candidate who is intended to benefit from the  
25 electioneering communication or advertisement. This subdivision applies only  
26 when the sponsor coordinates or consults about the advertisement or the  
27 ~~expenditure for it—~~ electioneering communication with the candidate who is  
28 intended to benefit.

29        (a2) If an advertisement or electioneering communication described in subsection (a) of  
30 this section is jointly sponsored, the disclosure statement shall name all the sponsors.

31        (b) Size Requirements. – The following shall apply to all advertisements and  
32 electioneering communications described in subsection (a) of this section:

- 33            (1) In a ~~print media advertisement covered by subsection (a) of this section,~~  
34 media, the height of all ~~disclosure statements~~ legends required by ~~that~~  
35 subsection (a1) of this section shall constitute at least five percent (5%) of the  
36 height of the printed space of the ~~advertisement,~~ advertisement or  
37 electioneering communication, provided that the type shall in no event be less  
38 than 12 points in size. In an advertisement or electioneering communication  
39 in a newspaper or a newspaper insert, the total height of the ~~disclosure~~  
40 ~~statement~~ legend required by subsection (a1) of this section need not constitute  
41 five percent of the printed space of the advertisement or electioneering  
42 communication if the type of the ~~disclosure statement~~ legend is at least 28  
43 points in size. If a single advertisement or electioneering communication  
44 consists of multiple pages, folds, or faces, the ~~disclosure requirement~~ legend  
45 required by subsection (a1) of this section applies only to one page, fold, or  
46 face.
- 47            (2) ~~In a television advertisement covered by subsection (a) of this section,~~ On  
48 television, the visual disclosure legend shall constitute four percent (4%) of  
49 vertical picture height in size, and where the television advertisement or  
50 electioneering communication that appears is paid for by a candidate or  
51 candidate campaign committee, the visual disclosure legend shall appear

1 simultaneously with an easily identifiable photograph of the candidate for at  
2 least two seconds.

3 (3) ~~In a radio advertisement covered by subsection (a) of this section,~~ On radio,  
4 the disclosure statement shall last at least two seconds, provided the statement  
5 is spoken so that its contents may be easily understood.

6 (4) In a qualified digital communication, the legend required by subsection (a1)  
7 of this section shall appear (i) in letters at least as large as the smallest text in  
8 the qualified digital communication or (ii) in a heading or similar section of  
9 text displayed above or within the qualified digital communication that is  
10 visually distinct from the text of the qualified digital communication and shall  
11 have a reasonable degree of color contrast between the background and the  
12 legend.

13 (c) Misrepresentation of Authorization. – Notwithstanding G.S. 163A-1445(a), any  
14 candidate, candidate campaign committee, political party organization, political action  
15 committee, referendum committee, individual, or other sponsor making an advertisement or  
16 electioneering communication described in subsection (a) of this section (i) in the print media or  
17 media, (ii) on radio or television television, or (iii) through a qualified digital communication  
18 bearing any legend required by subsection (a) subsection (a1) of this section that misrepresents  
19 the sponsorship or authorization of the advertisement or electioneering communication is guilty  
20 of a Class 1 misdemeanor."

21 **SECTION 5.** G.S. 163A-1477 reads as rewritten:

22 "**§ 163A-1477. Scope of disclosure requirements.**

23 The disclosure requirements of this Part apply to any sponsor of an advertisement ~~in the print~~  
24 ~~media or on radio or television the cost or value of which constitutes an expenditure or~~  
25 ~~contribution required to be disclosed under this Article, or electioneering communication~~  
26 ~~described in G.S. 163A-1476(a), except that the disclosure requirements of this Part:~~

- 27 (1) Do not apply to an individual who makes uncoordinated independent  
28 expenditures aggregating less than one thousand dollars (\$1,000) in a political  
29 campaign; and  
30 (2) Do not apply to an individual who incurs expenses with respect to a  
31 referendum.

32 ~~The disclosure requirements of this Part do not apply to any advertisement the expenditure~~  
33 ~~for which is required to be disclosed by G.S. 163-278.12A alone and by no other law."~~

34 **SECTION 6.** Part 2 of Article 23 of Chapter 163A of the General Statutes is amended  
35 by adding a new section to read:

36 "**§ 163A-1478. State Board to maintain records of qualified digital communications for**  
37 **political advertisements.**

38 (a) Any sponsor making advertisements or electioneering communications described by  
39 G.S. 163A-1476(a) through a qualified digital communication shall submit an informational  
40 statement to the State Board, in the form required by the State Board for each qualified digital  
41 communication placed or promoted upon reaching the threshold. At a minimum, the State Board  
42 shall require all of the following information with respect to a qualified digital communication:

- 43 (1) The name of the sponsor.  
44 (2) The city and state where the sponsor is located.  
45 (3) The amount spent by the sponsor for the qualified digital communication.  
46 (4) A description of the qualified digital communication.  
47 (5) The dates or date range on which the qualified digital communication runs.  
48 (6) The candidate or candidates intended to benefit from the qualified digital  
49 communication, if the sponsor is not the candidate or the candidate's campaign  
50 committee.

1           (7)    The audience targeted by the qualified digital communication, if less than the  
2                    entire district in which the identified candidate or candidates are seeking  
3                    election.

4           (8)    The manner in which the qualified digital communication was distributed.

5           (9)    Which Web site, Web application, or digital application, including any social  
6                    network, advertising network, or search engine, was paid the fee to place or  
7                    promote the qualified digital communication.

8           (b)    All informational statements submitted to the State Board under this section are a  
9                    public record and shall be maintained by the State Board on its Web site for at least two election  
10                  cycles.

11          (c)    This section applies only to the following:

12           (1)    Any sponsor making advertisements described by G.S. 163A-1476(a) through  
13                    a qualified digital communication totaling more than one thousand dollars  
14                    (\$1,000) per election.

15           (2)    Any sponsor making electioneering communications described by  
16                    G.S. 163A-1476(a) through a qualified digital communication totaling more  
17                    than five thousand dollars (\$5,000) per election."

18           **SECTION 7.** This act becomes effective January 1, 2020, and applies to elections  
19           conducted on or after that date.