

Disclosing Candidate-Specific Communications

This Act requires every individual, committee, association, or any other organization or group of people that incurs an expense for the direct costs of producing or airing candidate-specific communications in an aggregate amount in excess of ten thousand dollars during any calendar year shall, within 24 hours of each disclosure date, file with the state board of elections a statement identifying the entities incurring the expense, the custodian of the books and accounts of the entity incurring the expense, the principal place of business of the entity incurring the expense and identifying the candidates in the candidate-specific communications.

Submitted as:

North Carolina

Session Law 2006-233

Status: Enacted into law in 2006.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Provide for the Disclosure of
2 Candidate-Specific Communications.”

3
4 Section 2. [*Candidate-Specific Communication: Definitions.*] As used in Sections 1
5 through 4 of this Act:

6 (1) The term “candidate-specific communication” means any broadcast, cable, or satellite
7 communication that has all the following characteristics:

8 a. refers to a clearly identified candidate for a statewide office or the [General
9 Assembly].

10 b. is made in an even-numbered year after the final date on which a Notice of
11 Candidacy can be filed for the office, pursuant to [insert citation], and through the day on which
12 the general election is conducted, excluding the time period set in the definition for
13 [“electioneering communication”] in [insert citation].

14 c. is targeted to the relevant electorate.

15 (2) The term “candidate-specific communication” does not include any of the following:

16 a. a communication appearing in a news story, commentary, or editorial distributed
17 through the facilities of any broadcasting station, unless those facilities are owned or controlled
18 by any political party, political committee, or candidate.

19 b. a communication that constitutes an expenditure or independent expenditure
20 under [insert citation].

21 c. a communication that constitutes a candidate debate or forum conducted
22 pursuant to rules adopted by the [Board] or that solely promotes that debate or forum and is made
23 by or on behalf of the person sponsoring the debate or forum.

24 d. a communication made while the [General Assembly] is in session which,
25 incidental to advocacy for or against a specific piece of legislation pending before the [General
26 Assembly], urges the audience to communicate with a member or members of the [General
27 Assembly] concerning that piece of legislation.

28 e. an [“electioneering communication”] as defined in [insert citation].

29 (3) The term “disclosure date” means either of the following:

30 a. the first date during any calendar year when a candidate-specific communication
31 is aired after an entity has incurred expenses for the direct costs of producing or airing candidate-
32 specific communications aggregating in excess of [ten thousand dollars (\$10,000)].

33 b. any other date during that calendar year by which an entity has incurred
34 expenses for the direct costs of producing or airing candidate-specific communications
35 aggregating in excess of [ten thousand dollars (\$10,000)] since the most recent disclosure date for
36 that calendar year.

37 (4) The term “targeted to the relevant electorate” means a communication which refers to
38 a clearly identified candidate for statewide office or the [General Assembly] and which can be
39 received by [50,000 or more] people in the state in the case of a candidacy for statewide office
40 and [2,500 or more] people in the [district] in the case of a candidacy for [General Assembly].

41 (5) The term “Board” means the [state board of elections] defined in [insert citation].

42
43 Section 3. [*Disclosing Candidate-Specific Communications.*]

44 (1) Statement Required. – Every individual, committee, association, or any other
45 organization or group of people that incurs an expense for the direct costs of producing or airing
46 candidate-specific communications in an aggregate amount in excess of [ten thousand dollars
47 (\$10,000)] during any calendar year shall, within [24 hours] of each disclosure date, file with the
48 [state board of elections] a statement containing the information described in subsection (2) of
49 this section.

50 (2) Contents of Statement. – Each statement required to be filed by this section shall be
51 made under the penalty of perjury as defined in [insert citation] and shall contain the following
52 information:

53 a. the identification of the entity incurring the expense, of any entity sharing or
54 exercising direction or control over the activities of that entity, and of the custodian of the books
55 and accounts of the entity incurring the expense;

56 b. the principal place of business of the entity incurring the expense if the entity is
57 not an individual;

58 c. the amount of each expense incurred of more than [one thousand dollars
59 (\$1,000)] during the period covered by the statement and the identification of the entity to whom
60 the expense was incurred;

61 d. the candidates in the candidate-specific communications that are identified or
62 are to be identified;

63 e. the identity of every provider of funds or anything of value whatsoever to the
64 entity, providing an amount in excess of [one thousand dollars (\$1,000)]. If the provider is an
65 individual, the statement shall also contain the principal occupation of the provider. The
66 “principal occupation of the provider” shall mean the same as the “principal occupation of the
67 contributor” in [insert citation].

68 (3) Creating Multiple Organizations. – It shall be unlawful for any person or entity to
69 create, establish, or organize more than [one] political organization (as defined in section
70 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the reporting
71 requirements contained in this Act.

72
73 Section 4. [*Penalties.*] The [state board of elections] has the same authority to compel
74 from any organization covered by this Act the disclosures required by this Act that the [Board]
75 has to compel from a political committee the disclosures required by [insert citation]. The civil
76 penalties and remedies in [insert citation] shall apply to violations of this Act.

77
78 Section 5. [*Candidate-Specific Communications: Mass Mailings and Telephone Banks.*]
79 As used in Sections 5 through 10 of this Act, the following terms have the following definitions:

80 (1) The term “candidate-specific communication” means any mass mailing or telephone
81 bank that has all the following characteristics:
82 a. refers to a clearly identified candidate for a statewide office or the [General
83 Assembly];
84 b. is made in an even-numbered year after the final date on which a Notice of
85 Candidacy can be filed for the office, pursuant to [insert citation], and through the day on which
86 the general election is conducted, excluding the time period set in the definition for
87 “electioneering communication” as defined in [insert citation].
88 c. is targeted to the relevant electorate.

89 (2) The term “candidate-specific communication” does not include any of the following:
90 a. a communication appearing in a news story, commentary, or editorial distributed
91 through any newspaper or periodical, unless that publication is owned or controlled by any
92 political party, political committee, or candidate.
93 b. a communication that constitutes an expenditure or independent expenditure
94 under [insert citation].
95 c. a communication that constitutes a candidate debate or forum conducted
96 pursuant to rules adopted by the [Board] or that solely promotes that debate or forum and is made
97 by or on behalf of the person sponsoring the debate or forum.
98 d. a communication that is distributed by a corporation solely to its shareholders or
99 employees or by a labor union or professional association solely to its members.
100 e. a communication made while the [General Assembly] is in session which,
101 incidental to advocacy for or against a specific piece of legislation pending before the [General
102 Assembly], urges the audience to communicate with a member or members of the [General
103 Assembly] concerning that piece of legislation.
104 f. an electioneering communication as defined in [insert citation].
105 g. a public opinion poll conducted by a newspaper, periodical, or other news
106 gathering organization.

107 (3) The term “disclosure date” means either of the following:
108 a. the first date during any calendar year when a candidate-specific communication
109 is transmitted after an entity has incurred expenses for the direct costs of producing or
110 transmitting candidate-specific communications aggregating in excess of [ten thousand dollars
111 (\$10,000)].
112 b. any other date during that calendar year by which an entity has incurred
113 expenses for the direct costs of producing or transmitting candidate-specific communications
114 aggregating in excess of [ten thousand dollars (\$10,000)] since the most recent disclosure date for
115 that calendar year.

116 (4) The term “mass mailing” means any mailing by United States mail or facsimile or as
117 defined under [insert citation].

118 (5) The term “race” means a ballot item, as defined in [insert citation], in which the voters
119 are to choose between or among candidates.

120 (6) The term “targeted to the relevant electorate” means:
121 a. with respect to a statewide race:
122 1. transmitting, by mail or facsimile to a cumulative total of [50,000 or
123 more] addresses in the State, items identifying one or more candidates in the same race within any
124 [30-day] period; or
125 2. making a cumulative total of [50,000 or more] telephone calls in the
126 State identifying one or more candidates in the same race within any [30-day] period.
127 b. with respect to a race for the [General Assembly]:

128 1. transmitting, by mail or facsimile to a cumulative total of [2,500 or
129 more] addresses in the [district], items identifying one or more candidates in the same race within
130 any [30-day] period; or

131 2. making a cumulative total of [2,500 or more] telephone calls in the
132 district identifying one or more candidates in the same race within any [30-day] period.

133 (7) The term “telephone bank” means telephone calls that are targeted to the relevant
134 electorate, except when those telephone calls are made by volunteer workers, whether or not the
135 design of the telephone bank system, development of calling instructions, or training of
136 volunteers was done by paid professionals.

137 (8) The term “Board” means the [state board of elections] defined in [insert citation].

138

139 Section 6. [*Disclosure of Candidate-Specific Communications.*]

140 (1) Statement Required. – Every individual, committee, association, or any other
141 organization or group of people that incurs an expense for the direct costs of producing or
142 transmitting candidate-specific communications in an aggregate amount in excess of [ten
143 thousand dollars (\$10,000)] during any calendar year shall, within [24 hours] of each disclosure
144 date, file with the [Board] a statement containing the information described in subsection (2) of
145 this section.

146 (2) Contents of Statement. – Each statement required to be filed by this section shall be
147 made under the penalty of perjury as defined in [insert citation] and shall contain the following
148 information:

149 a. the identification of the entity incurring the expense, of any entity sharing or
150 exercising direction or control over the activities of that entity, and of the custodian of the books
151 and accounts of the entity incurring the expense;

152 b. the principal place of business of the entity incurring the expense if the entity is
153 not an individual;

154 c. the amount of each expense incurred of more than [one thousand dollars
155 (\$1,000)] during the period covered by the statement and the identification of the entity to whom
156 the expense was incurred;

157 d. the candidates in the candidate-specific communications that are identified or
158 are to be identified;

159 e. the identity of every provider of funds or anything of value whatsoever to the
160 entity, providing an amount in excess of [one thousand dollars (\$1,000)]. If the provider is an
161 individual, the statement shall also contain the principal occupation of the provider. The
162 “principal occupation of the provider” shall mean the same as the “principal occupation of the
163 contributor” in [insert citation].

164 (3) Creating Multiple Organizations. – It shall be unlawful for any person or entity to
165 create, establish, or organize more than [one] political organization (as defined in section
166 527(c)(1) of the Internal Revenue Code) with the intent to avoid or evade the reporting
167 requirements contained in this Act.

168

169 Section 7. [*Penalties.*] The [state board of elections] has the same authority to compel
170 from any organization covered by this Act the disclosures required by this Act that the [Board]
171 has to compel from a political committee the disclosures required by [insert citation]. The civil
172 penalties and remedies in [insert citation] shall apply to violations of this Act.

173

174 Section 8. [*Severability.*] [Insert severability clause.]

175

176 Section 9. [*Repealer.*] [Insert repealer clause.]

177

178 Section 10. [*Effective Date.*] [Insert effective date.]