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Elections

In 2006 the General Assembly made it easier for new political parties to retain official recognition; took the first steps toward introducing a new method of elections in North Carolina—“instant runoff” voting; limited the uses that candidates can make of campaign contributions; and amended a large number of elections statutes on a wide variety of subjects.

Parties, Candidates, and Access to the Ballot

The 2006 General Assembly passed several statutory provisions concerning the status of new parties, the appearance of their candidates on the ballot, and challenges to candidates.

Maintaining Status as a Recognized Party

North Carolina’s system for the conduct of elections takes parties into account in many ways: the state conducts primary elections by which parties choose their candidates to stand in the general election; parties nominate officials to be named as members of county boards of elections and as precinct election officials; when voters register, they register as affiliated with one party or another or as unaffiliated; parties are permitted to have observers present within the voting place on election day; and parties are entitled to quick access to certain kinds of information related to election day activities. To meet these and many other statutory requirements, the law must provide for the creation and maintenance of political parties.

As of the close of the 2006 session of the General Assembly, there were two recognized political parties in the state—the Democratic Party and the Republican Party—but at other times in the recent past there have been others, including the Libertarian Party and the Socialist Workers Party.

G.S. 163-96(a)(2) provides that a new political party may be formed through the circulation of a petition with a minimum number of signatures of qualified registered voters. Once the new party is recognized by the State Board of Elections as the result of a successful petition drive, G.S. 163-97 provides the standard for determining whether the party will continue over time to be recognized. The statute previously provided that any party, to maintain its recognized status, must receive at least 10 percent of the vote cast for governor or for president in each election. If a party

fails to meet the statutory requirement, the State Board will withdraw recognition. S.L. 2006-234 (H 88) amends G.S. 163-97, and makes a corresponding change to G.S. 163-96(a)(1), to lower the threshold for continued recognition from 10 percent to 2 percent.

New Party Candidates on the Ballot

G.S. 163-98 provides that when a new party is recognized, for the first election after its recognition it is to name its candidates in a party convention—rather than in a primary election—and is entitled to have the names of those candidates appear on the general election ballots. S.L. 2006-234 makes clear that these candidates must meet the regular filing fee (or alternative) requirements that apply to the candidates of other parties when those candidates file notices of candidacy to run in the primaries.

Unaffiliated Candidates' Access to the Ballot

G.S. 163-122 provides a method by which an individual may gain a spot on the general election ballot without standing as a candidate in a party's primary elections, by securing a minimum number of signatures of qualified registered voters on a petition. If the office at issue is a statewide office, the statute has required that the individual must secure signatures of at least 2 percent of the registered voters of the state. S.L. 2006-234 changes that requirement: it is now 2 percent of the total number of voters who voted in the most recent election for governor. The act also adds a new requirement that the petition must contain the signatures of at least 200 registered voters in each of four North Carolina congressional districts.

S.L. 2006-234 also amends G.S. 163-122 to make it clear that unaffiliated candidates reaching the ballot through the petition process must meet the regular filing fee (or alternative) requirements that apply to the candidates of parties who have followed the standard procedure of filing notices of candidacy to run in the primaries.

Filling Vacancies in Nominations

G.S. 163-114 provides the method for securing party nominees for the general election ballot when a nominee selected in a primary is unable to go forward. In general, the executive committees of the relevant political parties select the replacements. S.L. 2006-234 amends the statute to add a provision that an individual whose name appeared on the ballot in the primary election may not be selected to fill a vacancy on the ballot for the other political party.

Challenges to Candidates

S.L. 2006-155 (H 2188) adds new Article 11B to Chapter 163 of the General Statutes, creating a new procedure under which a challenge may be made and a hearing may be held before the election on an assertion that a candidate who has filed a notice of candidacy is not "qualified to be a candidate for the office."

Who may file the challenge. Any registered voter of the district covered by the office may file a challenge.

When the challenge may be filed. The challenge may be filed at any time between the filing of the notice of candidacy and ten days after the close of the filing period.

Who hears the challenge. If the district for the office is a single county or part of only one county, then the board of elections for that county hears the challenge. If the office is statewide, then the State Board of Elections hears the challenge. If the office includes parts of more than one county, but is not statewide, then the challenge is to be heard by a panel consisting of members of the boards of elections of the affected counties, to be appointed by the State Board in proportion to the relative number of registered voters eligible to vote for that office in each county. Both parties are to be represented on such a blended panel. The maximum number of panel members is five.

How the hearing is to be conducted. The panel hearing the challenge is to allow for depositions prior to the hearing; is to issue subpoenas for witnesses or documents upon request of the parties or on its own motion (and is to allow the parties to issue subpoenas); is to allow evidence at the hearing in the form of affidavits supporting documents or examination of witnesses; and, most surprisingly, is to follow the rules of evidence that apply in regular court proceedings. The panel is to make a written decision stating findings of fact, conclusions of law, and an order.

Burden of proof. The burden of proof is on the candidate to show by a preponderance of the evidence that he or she is qualified to be a candidate for the office.

Appeals. Appeals from decisions of a single-county or multi-county hearing are to be taken to the State Board of Elections, which is to make an appellate decision based on the record as a whole. An appeal may then be taken to the court of appeals. Appeals from decisions made by the State Board regarding statewide candidates are taken directly to the court of appeals.

Duty of the Board of Elections When a Candidate Files

G.S. 163-106(g) (for most offices) and G.S. 163-291(2) (for partisan municipal offices) have long required that when a candidate files a notice of candidacy to run in a partisan primary, the board of election must check the registration records of the county to ensure that the individual is eligible to run in that party's primary and must cancel the notice of candidacy of anyone who is not eligible. S.L. 2006-155 amends the statute to expand the obligations of county boards with respect to candidate eligibility. Now, when a candidate files, the board is to cancel the notice of candidacy of anyone who "does not meet the constitutional or statutory qualifications for the office, including residency." The statute as amended also provides for an appeals process for any candidate whose notice of candidacy is canceled. That candidate may appeal using the procedures described immediately above with respect to challenges to candidates under new Article 11B of Chapter 163 of the General Statutes.

S.L. 2006-155 makes corresponding changes to G.S. 163-122 regarding individuals seeking to get on the ballot by petition as unaffiliated candidates and to G.S. 163-123 regarding individuals who seek to qualify by petition as write-in candidates.

Conduct of Elections

The 2006 General Assembly enacted a number of changes in the statutes related to the conduct of the election itself.

Counting of Absentee Ballots

As absentee ballots come in during the days before election day, county boards of elections meet to pass on the applications that accompany the ballots and to set the valid ballots aside for counting. G.S. 163-234 provides that county boards may begin to count absentee ballots as early as 2:00 p.m. on election day, as long as the results are not announced before 7:30 p.m., when the polls close. S.L. 2006-262 (H 128) amends the statute to add a provision permitting county boards of elections, in the days before election day when they are approving ballot applications, to open the ballot envelopes and feed the ballots into optical scan counting machines—but not to complete the counting—in order to save time on election day.

Unmarked Provisional Ballots

In certain circumstances in which a voter's eligibility to vote is not clear at the polls—perhaps the person's name does not appear on the voter roll despite the person's assertion that he or she is properly registered to vote—the voter may fill out a provisional ballot application and cast a

provisional ballot, sealing the provisional ballot in an envelope on which the application appears. The provisional ballot will not be counted until the provisional ballot application can be assessed and the eligibility determined. S.L. 2006-262 amends G.S. 163-165(6) to make it clear that while the envelope is to be numbered so that the application can be properly processed, the provisional ballot that is to be sealed inside the envelope is not to be numbered.

Selection of Precincts for Sample Hand-to-Eye Count

G.S. 163-182.1 requires that in elections in which optical scan or direct record electronic (DRE) voting systems are used (which, in effect, is all elections), there must be a sample hand-to-eye count of the optical scan paper ballots or the DRE paper record in every county. S.L. 2006-192 (H 1024) adds a provision to the statute specifying that the State Board of Elections is to approve, in an open meeting, the procedure for randomly selecting the sample precincts for each election. The random selection itself is to be done publicly after the initial count of the returns for that county is publicly released, or twenty-four hours after the polls close on election day, whichever is earlier. A corresponding change is made to G.S. 163-182.2.

Date of the Second Primary

In a partisan primary, a candidate must receive at least 40 percent of the vote (termed a “substantial plurality”) in order to be declared the winner of the primary. If the leading candidate does not receive at least a substantial plurality, then the candidate who finished second may call for a second primary between just the two top finishers. G.S. 163-111(e) previously provided that the second primary was to be held four weeks after the first primary. S.L. 2006-192 amends the statute to provide that the second primary is to be held seven weeks after the first primary, for all elections after January 1, 2007.

Dates of Partisan Municipal Primaries

Most cities in North Carolina conduct their elections for city council and mayor on a nonpartisan basis, but a few use partisan elections. G.S. 163-279 previously set the date of partisan elections as the regular election day in November, with the first primary held on the sixth Tuesday before election day and the second primary, if needed, on the fourth Tuesday before election day. S.L. 2006-192 changes the date of the first primary, for all elections after January 1, 2007, to the second Tuesday after Labor Day.

Municipal Candidates’ Notice of Candidacy Filing Period

G.S. 163-294.2 and G. S. 163-291 have set the period during which county boards of elections will accept the filing of notices of candidacy by candidates in nonpartisan municipal elections and partisan municipal elections, respectively. The period has been from noon on the first Friday in July to noon on the first Friday in August. S.L. 2006-192 changes the period, for all elections after January 1, 2007, so that it will open at the same time and close at noon on the third Friday in July, a three-week period.

Eligibility to Register and Vote

The General Assembly amended a number of statutory provisions related to voter registration and eligibility to vote.

Election Day Challenges

The general statutes provide a method by which a registered voter of the county may, at any time during the year, challenge the eligibility of any other voter in the county, on the grounds of residency, age, citizenship, or certain other bases. In that case, the county board of elections will consider the matter and rule on the challenged voter's eligibility. G.S. 163-87 permits a special challenge *on election day*, by any registered voter of the precinct, of any other voter of the precinct. In this special election-day challenge, two additional grounds for challenge are available: (1) that the person has already voted in that election and (2) that the person is voting in a partisan primary election but is a member of another party. The statute formerly provided that this second ground for challenge included the challenge that the person "does not in good faith intend to support the candidates nominated in that party's primary." S.L. 2006-262 deletes this antiquated provision.

S.L. 2006-262 also adds a provision with respect to election-day challenges, providing that if a ballot is successfully challenged but, because of the nature of the challenge, there remain some races on the ballot for which the voter remains eligible, then the ballot is to be counted in all those races. Further, while the statute formerly provided that, upon a successful challenge to a voter, the voter's registration was to be cancelled, the new provision calls for the registration to be cancelled "or corrected."

Moves within the County

G.S. 163-82.15(a) provides that if a registered voter moves within the county, the voter need not re-register but may simply inform the board of elections of the move. In giving that notice, the voter has been required to provide the "date of moving." With a change enacted by S.L. 2006-262, the voter is instead to attest that he or she "moved at least 30 days before the next primary or election" from the old to the new address.

Nontraditional Residences for Voting Purposes

G.S. 163-57 defines residency for voting purposes and provides direction on dealing with unusual circumstances, such as instances in which a county boundary line splits a voter's house. S.L. 2006-262 amends the statute to deal with circumstances in which the residency of a person must be determined when the person does not live in "a traditional residence associated with real estate." In that case, residency is to be controlled by "the usual sleeping area" for the person, with residence to be "broadly construed to provide all persons with the opportunity to register and vote." In that vein, a registrant's mailing address may be different from his or her residence address.

Pilot Tests for Instant Runoff Voting

The 2006 General Assembly directed the State Board of Elections to conduct pilot tests of an innovative method of conducting elections. S.L. 2006-192 provides that in jurisdictions participating in the pilot tests, second primaries and runoff elections will be eliminated in favor of instant runoff voting.

Traditional Second Primaries and Runoffs

Most regular North Carolina partisan primaries and many nonpartisan elections have the potential to require a second primary or runoff.

In a partisan primary, a candidate must receive at least 40 percent of the vote (a "substantial plurality") in order to be declared the winner of the primary. If the leading candidate does not

receive at least a substantial plurality, then the candidate who finished second may call for a second primary between just the two top finishers, frequently referred to as a “runoff.”

In nonpartisan elections using the election-and-runoff method, a first election is held among all candidates. If any one candidate receives a majority of the votes, that candidate is elected and no runoff is held. If no candidate receives a majority, then a runoff is held between the two top finishers.

In nonpartisan elections using the primary-and-election method, a primary is held to narrow the field to two, and then an election is held between the two top finishers.

In jurisdictions participating in the pilot tests, instant runoff voting will replace all three of these methods.

How Instant Runoff Voting Works

S.L. 2006-192 describes how instant runoff voting works (but authorizes the State Board of Elections to make modifications as necessary).

In instant runoff voting, voters cast their ballots only once, so that they do not have to return to the polls for a second primary or runoff. When they mark their ballots, they mark not only their choice for the winner—as they would in traditional voting—but also their second and third choices. When the ballots are counted, only the first choices are counted in the initial round of counting.

If the race is a partisan primary and any candidate receives the 40 percent substantial plurality of the vote, then that candidate is declared the winner and no further counting is necessary. If, however, no candidate receives the substantial plurality, then the ballot counters conduct a second round of counting, with only the two top finishers from the first round advancing to the second round. In the second round, each ballot counts as a vote for whichever of the two finalists is ranked higher on the ballot. The candidate with the higher number of votes in the second round wins.

If the race is a nonpartisan election and any candidate receives a majority of the votes, then that candidate is the winner and no further counting is necessary. If, however, no candidate receives a majority, then the counting continues to a second round as described above.

Pilot Tests in 2007 and 2008

The statute directs the State Board of Elections to test instant runoff voting in up to ten cities (which mostly use nonpartisan elections) in the 2007 municipal elections and ten counties (which exclusively use partisan elections) in the 2008 elections. The State Board is to seek diversity of population and demographic composition and to conduct the pilot tests around the state. Each test will require the concurrence of the local board of elections.

The State Board is to report its findings and recommendations to the 2007 General Assembly.

Instant Runoff Voting in Judicial Races

See the discussion immediately below regarding changes in the method of elections of superior court judges and judges on the North Carolina Supreme Court and the North Carolina Court of Appeals. In one particular instance, the law creates the possibility of instant runoff voting in those races.

Changes in Nonpartisan Judicial Elections

In 1996 the General Assembly enacted Article 25 of G.S. Chapter 163, changing superior court judge elections from partisan to nonpartisan, effective with the 1998 elections. In 2001 it made the same change for district court judge elections, and effective with the 2004 elections, it

did likewise for elections of judges to the North Carolina Supreme Court and the North Carolina Court of Appeals. In the 2004 elections, between the time of the nonpartisan primaries and the general election, a member of the supreme court resigned, creating a vacancy to be filled by election. As G.S. 163-329 stood at that time, it called for that seat to be filled in the general election by a simple plurality election, with no primary. The result was a crowded field and a winning candidate with far less than a majority of the votes.

The 2006 General Assembly responded with changes to G.S. 163-329 and related statutes.

Filling in Statutory Gaps

In the standard situation, candidates for superior court, the court of appeals, and the supreme court file their notices of candidacy and run in a nonpartisan primary. In each primary race, the two highest finishers are declared the nominees, and they face one another in the general election. Unusual situations can arise in many different ways, however; perhaps no candidates file notices of candidacy, perhaps a candidate dies or becomes disqualified before the primary (either before or after the ballots have been printed), perhaps a candidate who has advanced from the primary (and is therefore a nominee) dies, perhaps a nominee wishes to withdraw from the election. The set of statutes addressing these concerns is found at G.S. 163-327 through 163-329.

S.L. 2006-192 amends those statutes to make a few clarifications, as follows:

1. It adds a provision detailing what is to happen if a candidate for nomination dies or becomes disqualified before the primary. The State Board of Elections is to determine whether there is enough time to reprint the ballots. If there is not, the candidate's name stays on the ballot. If that candidate receives enough votes for nomination, those votes are to be disregarded and the next-highest candidate is declared nominated. If the death or disqualification leaves only two candidates in the primary, the primary is not to be held and the two are declared nominated.
2. It adds a provision specifying that a candidate who has filed a notice of candidacy may not withdraw from the race after the close of the filing period. If that candidate wins in the primary, he or she goes on the general election ballot. If the candidate wins in the general election, he or she may refuse to take the oath of office, thereby creating a vacancy.
3. It adds a provision specifying that if a nominee wins the election and then dies or becomes disqualified before taking the oath of office, or refuses to take the oath, a vacancy is created.

S.L. 2006-192 also establishes rules by which money from the North Carolina Public Campaign Fund (which provides public funding for campaigns of participating appellate judicial candidates) can be made available to candidates running in these nonstandard judicial elections.

Instant Runoff Voting in Some Elections

In 2004, when a North Carolina Supreme Court member resigned after the primary, the general election for that seat was a single-vote, plurality, highest-vote-getter-wins election. S.L. 2006-192 amends G.S. 163-329 to change the procedure for future elections.

In future judicial elections, if a vacancy occurs more than sixty days before the general election, but after the close of the candidate filing period, the State Board of Elections is to open a new filing period of one week. (If a vacancy occurs within sixty days before the general election, the vacancy is not filled by election at that time.) At that point, the nature of the election will depend on the timing of the creation of the vacancy.

If the vacancy occurs more than sixty-three days before the date of the second primary for members of the General Assembly (some time in late April), a special primary is to be held on the date of the second primary. The two candidates with the highest votes in that special primary go on the ballot for the general election.

If, however, the vacancy occurs less than sixty-four days before the date of the second primary, then all the candidates are to be voted on together at the time of the general election. That

vote is not to be a simple plurality election, as in 2004, however. It is instead to be conducted by the instant runoff method.

By this method, voters will rank up to three of the candidates on the general election ballot in order of preference. If a candidate receives a majority of the first-preference votes, that candidate is elected. If no candidate receives a majority of first-preference votes, the two highest finishers move to a second round of counting (but not to a second round of voting—the voters vote only once, in the general election). In the second round of counting, each ballot counts as a vote for whichever of the two candidates is ranked higher on that ballot. The winner is then the candidate with the higher total vote count.

The new statute sets out the following rules for instant runoff voting:

1. If the two remaining candidates are not among the three ranked preferences on a particular ballot, then that ballot is not counted in the second round.
2. If the voter on the ballot indicates only a first choice but not a second or third preference (or a first and second but not a third), the failure to mark lower preferences does not invalidate the vote for the higher preference.
3. If a voter gives more than one level of preference to a single candidate, that does not invalidate the ballot; it merely gives the highest preference among those marked to that candidate.

Fund-Raising by Publicly Funded Judicial Candidates

In 2002, effective for the 2004 elections, the General Assembly created a system by which candidates for the North Carolina Supreme Court and the North Carolina Court of Appeals may, if they meet certain qualification standards, choose to have their campaigns funded by the North Carolina Public Campaign Fund. Candidates who make this choice agree to limit their total spending and to give up the opportunity for private fund-raising.

G.S. 163-278.65 provides that if there is not enough money in the public campaign fund to provide all participating candidates the full amount to which they would normally be entitled under the statute, then the funds are to be distributed proportionally, according to each candidate's eligible funding. S.L. 2006-192 adds to that statute a provision that in such an instance, the participating candidate may resume private fund-raising to raise additional money up to the amount to which the candidate would have been entitled if the public campaign fund were fully funded.

G.S. 163-278.66 previously required entities making independent expenditures (that is, not direct contributions) on behalf of or in opposition to a participating candidate or that candidate's opponent to start reporting the expenditures within twenty-four hours of the time that any single independent expenditure exceeded \$3,000 and the total of independent expenditures met a certain threshold. S.L. 2006-192 deletes the \$3,000 size-of-expenditure requirement and changes the threshold, so that reporting of these independent expenditures must begin within twenty-four hours of the total of the expenditures exceeding \$5,000, regardless of the size of individual expenditures.

G.S. 163-278.13(e2)(3) previously provided that candidates for the North Carolina Supreme Court and the North Carolina Court of Appeals who were not participating in the North Carolina Public Campaign but who were opposed by a participating candidate could not accept contributions in the final twenty-one days before the general election. S.L. 2006-192 amends the statute to provide that these candidates may continue to receive contributions during this period, as long as total contributions to the candidate do not exceed the "trigger for rescue funds"—that is, the point at which the opposing candidate is eligible for additional public financing.

G.S. 163-278.13 sets limits on amounts that may be contributed to political candidates generally. Subsection (e) previously exempted political parties from the contribution limits. S.L. 2006-192 amends subsection (e) to provide that even political parties are covered by limitations on contributions to candidates for the North Carolina Supreme Court and the North Carolina Court of Appeals.

G.S. 163-278.13 provides that the maximum contribution that any one entity may make to any one candidate is \$4,000 per election. Subsection (e2) reduces that maximum contribution to

\$1,000 for a candidate for the North Carolina Supreme Court or the North Carolina Court of Appeals. S.L. 2006-192 adds new G.S. 163-278.13(e3) setting the maximum contribution to a candidate for superior court or district court judge at \$1,000 as well.

Funding the Public Campaign Fund

The North Carolina Public Campaign Fund receives \$3 from the income tax obligation of each individual North Carolina income tax payer, if that individual gives permission on his or her tax return for that \$3 to go to the fund. S.L. 2006-192 amends G.S. 105-159.2 to require that the following statement appear on the tax return form: "Mark 'Yes' if you want to designate \$3 of taxes to this special Fund for voter education materials and for candidates who accept spending limits. Marking 'Yes' does not change your tax or refund." It also requires the following statement in the income tax preparation instructions: "The N.C. Public Campaign Fund provides an alternative source of campaign money to qualified candidates who accept strict campaign spending and fund-raising limits." This statement is a modification of the statement previously required, which specified that the eligible candidates were only those running for the North Carolina Supreme Court and the North Carolina Court of Appeals.

Campaign Finance

The 2006 General Assembly made a number of adjustments to the state's campaign finance laws. Some of those adjustments came in reaction to charges of campaign finance irregularities investigated by the State Board of Elections, involving checks given to the Speaker of the House of Representatives within lawful amounts but without the payee indicated, for the Speaker to fill in and pass along to an eventual recipient. Significant controversy existed over whether this practice was prohibited by statutes banning anonymous contributions or contributions made in the name of another or was permitted by G.S. 163-278.20, which permitted groups or committees to solicit and receive contributions upon advising the donor that "a decision will be reached later as to the candidate(s), political committee(s), or political party(ies) to be supported."

Contributions Must Specify Recipient

S.L. 2006-195 (H 1846) amends G.S. 163-278.14(b) to specify that contributions in the form of a check or other noncash method of payment must contain a specific designation of the intended contributee chosen by the contributor. G.S. 163-278.20, described in the paragraph above, is repealed.

Cash Contributions Limited to \$50

G.S. 163-278.14(b) formerly provided that all contributions above \$100 must be in the form of a check, draft, money order, credit card charge, debit, or other noncash method that can be subject to written verification. S.L. 2006-195 lowers the threshold to \$50. It also repeals G.S. 163-278.8(d), which dealt with the proper reporting of the receipt of numerous small cash donations at a single event, and replaces it with new G.S. 163-278.11(a1). The new legislation mandates that the State Board of Elections is to provide on its reporting forms for the reporting of the date and amount of contributions below the threshold and provides that the State Board "may treat differently for reporting purposes contributions below the threshold that are made in different modes and in different settings."

Candidates' Use of Contributions Restricted

Until the enactment of S.L. 2006-161 (H 1845), there were no restrictions on the uses that candidates could make of campaign contributions, as long as the candidate fully and accurately reported the uses on the required campaign spending disclosure reports. A candidate could, for example, use contributions to pay for a vacation to get away from the rigors of the campaign.

S.L. 2006-161 imposes new restrictions. Now, a candidate or candidate campaign committee may use contributions only for the following purposes: expenditures resulting from the campaign for public office by the candidate or from holding public office; contributions to a political party; contributions to another candidate or candidate's committee; return of the contribution to the contributor; payment of campaign finance penalties; certain charitable contributions; and payment to the state's Escheat Fund.

A candidate may file a written designation that directs how funds are to be distributed in the event of the candidate's death or incapacity. In the absence of such a designation, funds remaining after the payment of outstanding debts go the Escheat Fund.

Loans to Campaigns by Financial Institutions

G.S. 163-278.19 generally prohibits contributions to candidates or political committees by corporations or business entities, including financial institutions. Subsection (a)(1) has contained a provision permitting loans by banks and savings and loan associations in the ordinary course of business. S.L. 2006-262 amends the statute to delete that subsection (a)(1) exception and substitute for it a new subsection (a)(2) providing that the proceeds of loans made in the ordinary course of business by financial institutions may be used for contributions that are otherwise in compliance with the law. It also provides that financial institutions may grant revolving credit to political committees and referendum committees in the ordinary course of business.

Also amended is the companion statute to G.S. 163-279.19 (which prohibits the making of contributions by corporations), G.S. 163-278.15 (which prohibits acceptance of contributions from corporations), to permit candidates and committees to accept a contribution knowing it is composed of proceeds of a loan from a financial institution in the ordinary course of business under the following conditions: (1) the loan is secured by collateral placed or guarantees given by individuals who are permitted to make contributions; (2) the amounts of the collateral and guarantees are considered contributions as long as the loan is outstanding; and (3) a loan to a candidate or candidate's committee may be repaid only by the candidate, candidates's spouse, or the candidate's committee.

Clarification of Reasonable Administrative Support

G.S. 163-278.19 generally prohibits contributions by corporations, business entities, professional associations, insurance companies, and labor unions to candidates or political committees. Subsection (e) contains a provision permitting these entities to provide "reasonable administrative support" to political committees. S.L. 2006-262 amends the statute to define reasonable administrative support as including record keeping, computer services, billing, mailings to members of the committee, membership development, fund-raising activities, office supplies, office space, and other support reasonably necessary for the administration of the committee.

Expanded Reporting of Expenditures

G.S. 163-278.8 requires candidates and committees to report all media expenditures and all other expenditures in excess of \$50. S.L. 2006-161 adds a requirement that the report include a specific description to provide a reasonable understanding of the expenditure. It also adds a specification to G.S. 163-278.11(a)(2) that the "payee" on such a report is the individual or person to whom the candidate or committee is obligated to make the expenditure. If the expenditure is to

a financial institution for revolving credit, the report is to include a specific itemization of the goods and services purchased with the revolving credit.

Safe Harbor from Criminal Prosecution or Civil Penalties

G.S. 163-278.8 requires campaign treasurers to acquire significant amounts of information regarding campaign contributions, including the occupations of contributors. G.S. 163-278.11 requires the reporting of that information. Subsection (c) provides that if a treasurer has made best efforts to obtain and report the required information, the treasurer's reports are to be considered in compliance. S.L. 2006-195 adds to the statute a provision specifying that in such a case the report may not be the basis for criminal prosecution or imposition of civil penalties.

Mandatory Treasurer Training

G.S. 163-278.7(f) requires the State Board of Elections to make training available to campaign treasurers. S.L. 2006-195 amends the statute to require treasurers to take the training within three months of appointment and at least once every four years after that. The act also amends G.S. 163-278.9 to provide that required campaign finance reports may be submitted only by treasurers who have had the training.

Electioneering Communications Expenditures

Statutes enacted by the General Assembly in 2004 require reporting of disbursements made by any individual or other entity for broadcast, cable, or satellite communication; mass mailings; or telephone banks; if the communication refers to a clearly identified candidate for a statewide office or the General Assembly and the communication is made within sixty days before a general election in which that candidate is running for election or within thirty days of a primary election in which that candidate is running for nomination (or within thirty days of a nominating convention). Revisions in 2005 made clear that any disbursement for an electioneering communication of this sort must be made from a segregated account into which no funds from a prohibited source have been directly or indirectly introduced.

S.L. 2006-182 (H 1847) makes a few changes. First, throughout G.S. 163-278.80 through G.S. 163-278.83, amendments make clear that the reporting requirements apply once an entity has "incurred expenses" for a covered expenditure, rather than, as previously, when the entity has "made disbursements." Second, the requirements of these electioneering communications statutes are expanded to include mass mailings or telephone banks reaching an audience of 7,500 in connection with a General Assembly race.¹ The statutes formerly set that threshold at 5,000. Third, the statutes are amended to make clear that it is a violation of the act to set up several entities with the intent of avoiding the prohibitions of the act that would apply if the entities were acting cumulatively.

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1. As amended by Section 29(e) of S.L. 2006-259.