

§ 163-278.12C. Special reporting of electioneering communications.

(a) Every individual or person that incurs an expense for the direct costs of producing or airing electioneering communications aggregating in excess of five thousand dollars (\$5,000) shall file the following reports with the appropriate board of elections in the manner prescribed by the State Board of Elections:

- (1) The identification of the individual or person incurring the expense, of any individual or person sharing or exercising direction or control over the activities of that individual or person, and of the custodian of the books and accounts of the individual or person incurring the expense.
- (2) The principal place of business of the person incurring the expense, if not an individual.
- (3) The amount of each expense incurred during the period covered by the statement and the identification of the individual or person to whom the expense was incurred.
- (4) The elections to which the electioneering communications pertain, if any, and the names, if known, of the candidates identified or to be identified.
- (5) The names and addresses of all entities that donated, to further an electioneering communication or electioneering communications, funds or anything of value whatsoever in an aggregate amount of more than one thousand dollars (\$1,000) during the reporting period. If the donor is an individual, the statement shall also contain the principal occupation of the donor. The "principal occupation of the donor" shall mean the same as the "principal occupation of the contributor" in G.S. 163-278.11.

(b) The initial report shall be filed with the State Board no later than the 10th day following the day the individual or person incurs an expense for the direct costs of producing or airing an electioneering communication. The State Board shall require subsequent reporting according to the same schedule required of political committees under G.S. 163-278.9(a). An individual or person that produces or airs an electioneering communication shall disclose by report to the State Board within 48 hours of incurring an expense of five thousand dollars (\$5,000) or more or receiving a donation of one thousand dollars (\$1,000) or more for making an electioneering communication before an election but after the period covered by the last report due before that election.

(c) For the purposes of subdivision (a)(5) of this section, a donation to the person or entity making the electioneering communication is deemed to have been donated to further the electioneering communication if any of subdivisions (1) through (4) of this subsection apply. For purposes of this subsection, the "filer" is the person or entity making the electioneering communication and responsible for filing the report, or an agent of that person or entity. For purposes of this subsection, the "donor" is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

- (1) The donor designates, requests, or suggests that the donation be used for an electioneering communication or electioneering communications, and the filer agrees to use the donation for that purpose.
- (2) The filer expressly solicited the donor for a donation for making or paying for an electioneering communication.
- (3) The donor and the filer engaged in substantial written or oral discussion regarding the donor's making, donating, or paying for an electioneering communication.
- (4) The donor or the filer knew or had reason to know of the filer's intent to make electioneering communication with the donation.

A donation shall not be deemed to be made to further an electioneering communication if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an electioneering communication. In determining the amount of a donation that was made to further any particular electioneering communication, there shall be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the electioneering communication covered by the report.

(d) All reports required by this section shall be filed according to rules adopted by the State Board. If the expense incurred is greater than five thousand dollars (\$5,000), the report shall be filed electronically. The State Board shall provide the software necessary to file the electronic report to any individual or person required to file an electronic report at no cost to that individual or person. (2010-170, s. 3; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)