



# NORTH CAROLINA STATE BOARD OF ELECTIONS

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## MEMORANDUM

To: Karen Brinson Bell, Executive Director  
Paul Cox, General Counsel

From: Lindsey Wakely, Deputy General Counsel

Re: HB 237 (2024 Legislative Session)

Date: June 7, 2024

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This memo provides an explanation of the proposed campaign finance law changes in HB 237, which were released yesterday.

HB 237 makes changes to the limits and reporting requirements for federal political committees and 527 political organizations. 527 political organizations are tax-exempt organizations that are organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an exempt function. 26 U.S.C. § 527(e)(1). Exempt functions include “influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.” 26 U.S.C. § 527(e)(2).<sup>1</sup>

HB 237 almost entirely repeals and replaces the current language of G.S. § 163-278.7A regarding “gifts” (contributions) from federal political committees. It also expands the law to allow contributions from a 527 political organization to a political party executive committee or affiliated party committee.<sup>2</sup> Of particular note, it eliminates the requirement in G.S. § 163-278.7A(3) that a federal political committee “make its contributions within the limits specified in this Article.” This provision was the basis for an advisory opinion issued to the Democratic Governors Association May 5, 2020. In that opinion, Executive Director Brinson Bell determined that a federal independent expenditure-only PAC, also referred to

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<sup>1</sup> While some 527 political organizations are required to register and file disclosure reports as a North Carolina political committee, not all 527 political organizations meet the definition of a political committee in G.S. § 163-278.6(74). See Written Opinion 2015-10-02.

<sup>2</sup> There is no previous ruling from the State Board or advisory opinion from the Executive Director that explicitly permitted contributions from 527 political organizations.

as a federal Super PAC, could not make contributions to North Carolina candidates or political committees that make contributions to candidates because of the limitation on contributions from such entities in G.S. § 163-278.13(j). If made law, the new language of G.S. 163-278.7A would supersede the advisory opinion.

The State Board also previously interpreted the requirement that a federal political committee “makes its contributions within the limits specified in this Article” to limit federal PACs that meet the definition of a limited contributor in G.S. 163-278.13B from making contributions during regular sessions of the NC General Assembly. Under proposed HB 237, this limitation would no longer apply to federal political committees.

In place of being subject to “the limits specified in Article 22A,” federal political committees would be subject to two limits: (1) G.S. § 163-278.13(a) (which limits contributions to most committees at \$6,400 per election), and (2) a new G.S. § 163-278.7A(b), which says federal political committees and 527 political organizations may not contribute to North Carolina candidates or political committees if they accept contributions from sources prohibited from making contributions under G.S. § 163-278.19. Both direct and indirect contributions from corporations, business entities, labor unions, professional associations and insurance companies are prohibited under G.S. § 163-278.19(a). Nonprofits are permitted to make contributions if they qualify under a limited exception in G.S. § 163-278.19(h).

The new language in G.S. § 163-278.7A(b) also says that a federal political committee or 527 political organization with a separate, segregated account that only accepts contributions from sources not prohibited by G.S. § 163-278.19, may contribute to any State, district or political party executive committee, or affiliated party committee from that account. This would permit a federal political committee or 527 political organization to make contributions to political party executive committees and affiliated party committees from an account that received unlimited contributions from individuals. Under G.S. § 163-278.13(h) today, State, district or county executive committees may already accept unlimited contributions directly from individuals.

Contributions in the name of another remain prohibited under G.S. § 163-278.14(a). An individual may not contribute to a federal political committee or 527 political organization and earmark the funds to be given to North Carolina political party executive committee or affiliated party committee.

HB 237 also changes the reporting requirements for federal political committees and 527 political organizations. Instead of disclosing contributions made in North Carolina using forms developed by the State Board of Elections, federal political committees will file a copy of their FEC disclosure reports with the State Board of Elections. 527 political organizations that do not file reports with the FEC will be

required to file a copy of IRS Form 8872. A 527 political organization making contributions to a political party executive committee would have previously been required to file reports as a Special Contributor consistent with G.S. § 163-278.12(b) and rule 08 NCAC 21 .0103.<sup>3</sup> FEC and IRS disclosure reports would be due to the State Board of Elections within 10 calendar days of filing the report with the FEC or IRS. Under federal law, these disclosure reports are filed on either a monthly or quarterly basis. Currently, federal political committees are only required to file reports with the State Board of Elections quarterly in even-numbered years and semiannually in odd-numbered years. There are currently 303 federal political committees registered with the State Board of Elections. This change is likely to increase the volume of work for State Board campaign finance staff, without any commensurate budget increase.

Under the new language of G.S. § 163-278.7A(c), any federal political committee or 527 political organization making any contribution pursuant to G.S. § 163-278.7A must “comply with applicable reporting, operating, contribution, and other requirements and limits of federal law.”

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<sup>3</sup> Reporting requirements in G.S. § 163-278.12(b) apply generally to “any person or entity other than an individual that is permitted to make contributions but is not otherwise required to report them shall report each contribution in excess of [\$100] with the appropriate board of elections in the manner prescribed by the State Board of Elections.”