

8754

2009-2010 Regular Sessions

I N A S S E M B L Y

June 5, 2009

Introduced by M. of A. MILLER, ERRIGO, FIELDS, GALEF, McDONOUGH, RAIA,
WALKER -- Multi-Sponsored by -- M. of A. CALHOUN, CROUCH, GIGLIO,
SPANO -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to truth in political
advertising

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 8 of the election law is amended by adding a new
2 title 6 to read as follows:

3 TITLE VI

4 TRUTH IN POLITICAL ADVERTISING

5 SECTION 8-600. TRUTH IN POLITICAL ADVERTISING.

6 S 8-600. TRUTH IN POLITICAL ADVERTISING. 1. A COMMISSION SHALL BE
7 ESTABLISHED TO REVIEW POLITICAL ADVERTISING FOR CANDIDATES TO ALL STATE
8 OFFICES, WHICH IS DISTRIBUTED THROUGH PRINTED, RADIO, TELEVISION OR
9 OTHER ELECTRONIC MEDIA. THE COMMISSION SHALL BE CALLED THE COMMISSION ON
10 TRUTH IN POLITICAL ADVERTISING. SUCH COMMISSION SHALL BE COMPOSED OF
11 EIGHT MEMBERS; TWO MEMBERS TO BE APPOINTED BY THE GOVERNOR, TWO MEMBERS
12 TO BE APPOINTED BY THE MAJORITY LEADER OF THE SENATE, TWO MEMBERS TO BE
13 APPOINTED BY THE SPEAKER OF THE ASSEMBLY, ONE MEMBER TO BE APPOINTED BY
14 THE MINORITY LEADER OF THE SENATE AND ONE MEMBER TO BE APPOINTED BY THE
15 MINORITY LEADER OF THE ASSEMBLY. THE COMMISSION SHALL HAVE THE POWER TO
16 APPOINT PAID PROFESSIONAL STAFF, IN ACCORDANCE WITH RULES AND REGU-
17 LATIONS PROMULGATED BY THE STATE BOARD OF ELECTIONS, TO CARRY OUT THE
18 PROVISIONS OF THIS TITLE. THREE FULL TIME EMPLOYEES SHALL BE APPOINTED,
19 ONE OF WHOM SHALL BE THE EXECUTIVE DIRECTOR. TEMPORARY STAFF MAY BE
20 ADDED AS DETERMINED BY THE COMMISSION OR AS NEEDED FOR THE PERIOD OF
21 SIGNIFICANT ELECTION CAMPAIGNING ACTIVITY.

22 2. UPON THE WRITTEN REQUEST OF A CANDIDATE OR DESIGNEE HEREINAFTER
23 CALLED "ORIGINATOR", THE COMMISSION SHALL REVIEW WITHIN TWO BUSINESS
24 DAYS, THE REQUESTED ADVERTISEMENT TO ENSURE THAT IT IS ACCURATE AS TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD09697-01-9

1 WHAT THE AVERAGE VOTER WOULD BELIEVE ITS CONTENT TO MEAN. IF THE
2 COMMISSION, FOR WHATEVER REASON, CANNOT RESPOND WITHIN THE REQUIRED TIME
3 PERIOD, THE ORIGINATOR MAY RELEASE THE ADVERTISEMENT WITH A NOTICE THAT
4 THE COMMISSION DID NOT RESPOND WITHIN SUCH REQUIRED TIME. THE COMMIS-
5 SION'S RESPONSE SHALL REQUIRE THE ADVERTISEMENT TO INDICATE ONE OF THE
6 FOLLOWING RATINGS IN ANY DISSEMINATION:

- 7 A. MATERIAL IS ABSOLUTELY TRUE.
- 8 B. MATERIAL IS MOSTLY TRUE.
- 9 C. MATERIAL IS MOSTLY UNTRUE.
- 10 D. MATERIAL IS ABSOLUTELY UNTRUE.
- 11 E. MATERIAL HAS NOT BEEN RATED.

12 3. THE ORIGINATOR MAY APPEAL THE RATING SET BY THE COMMISSION. TO
13 EFFECT SUCH APPEAL, THE ORIGINATOR MUST REPLY TO THE COMMISSION WITHIN
14 FORTY-EIGHT HOURS OF THE RECEIPT OF THE RATING, AND MUST PROVIDE THE
15 COMMISSION WITH A WRITTEN REQUEST FOR A CHANGE IN THE RATING AND THE
16 REASON OR REASONS FOR SUCH CHANGE. THE COMMISSION SHALL HAVE ONE BUSI-
17 NESS DAY AFTER RECEIPT OF SUCH REPLY TO SEND AN ANSWER TO THE REQUEST TO
18 THE ORIGINATOR. IN EACH CASE, THE WRITTEN REQUEST AND ANSWER MAY BE SENT
19 BY TELEFACSIMILE, E-MAIL OR HAND DELIVERY. THE REPLY OF THE COMMISSION
20 SHALL BE FINAL.

21 4. THE ORIGINATOR SHALL HAVE THE OPTION TO NOT SUBMIT THE ADVERTISE-
22 MENT FOR RATING, BUT THAT FACT MUST BE DISCLOSED AT THE OPENING OF SUCH
23 ADVERTISEMENT BY THE CANDIDATE OR DESIGNEE.

24 5. THE MEMBERS OF THE COMMISSION SHALL SERVE AT THE PLEASURE OF THEIR
25 APPOINTER WITHOUT COMPENSATION, BUT SHALL BE REIMBURSED FOR THEIR NECES-
26 SARY EXPENSES IN CARRYING OUT THE WORK OF THE COMMISSION.

27 S 2. This act shall take effect immediately.