S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

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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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

TITLE VI

TRUTH IN POLITICAL ADVERTISING

SECTION 8-600. TRUTH IN POLITICAL ADVERTISING.

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

2. UPON THE WRITTEN REQUEST OF A CANDIDATE OR DESIGNEE HEREINAFTER CALLED "ORIGINATOR", THE COMMISSION SHALL REVIEW WITHIN TWO BUSINESS 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.

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

A. MATERIAL IS ABSOLUTELY TRUE.

B. MATERIAL IS MOSTLY TRUE.

C. MATERIAL IS MOSTLY UNTRUE.

D. MATERIAL IS ABSOLUTELY UNTRUE.

E. MATERIAL HAS NOT BEEN RATED.

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

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

5. THE MEMBERS OF THE COMMISSION SHALL SERVE AT THE PLEASURE OF THEIR APPOINTER WITHOUT COMPENSATION, BUT SHALL BE REIMBURSED FOR THEIR NECESSARY EXPENSES IN CARRYING OUT THE WORK OF THE COMMISSION.

S 2. This act shall take effect immediately.