

7089

2011-2012 Regular Sessions

I N A S S E M B L Y

April 12, 2011

Introduced by M. of A. J. MILLER, GALEF, McDONOUGH, RAIA -- 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:

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 REGULATIONS  
17 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.

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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.