

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 787

Short Title: Public Financing/Candidates.

(Public)

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Sponsors: Representatives Jones, Colton; Albertson, Barnes, Barnhill, Black, Bowman, J.W. Crawford, N.J. Crawford, Culp, DeVane, Diamont, Dickson, Dockham, Easterling, Ethridge, Foster, Gottovi, Grady, Greenwood, Hasty, Hensley, H. Hunter, R. Hunter, Hurley, Isenhower, Jarrell, Jordan, Justus, Kerr, Lineberry, Luebke, Payne, Privette, Rhodes, Rhyne, Rogers, Smith, Stamey, Thompson, Wainwright, Warner, Wicker, Wilson, Withrow, and Wood.

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Referred to: Judiciary I.

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April 15, 1991

A BILL TO BE ENTITLED

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2 AN ACT TO ALLOW AN ADDITIONAL FOUR YEARS FOR THE  
3 ACCUMULATION OF MONEY IN THE NORTH CAROLINA CANDIDATES  
4 FINANCING FUND AND TO LIMIT THE APPLICATION OF THAT FUND TO  
5 THE RACE FOR GOVERNOR, BEGINNING IN 1996.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 1063 of the 1987 Session Laws reads as rewritten:

8 **"CHAPTER 1063**

9 "House Bill 1124

10 "AN ACT TO LIMIT CAMPAIGN EXPENDITURES AND TO STRENGTHEN  
11 PUBLIC FINANCING OF POLITICAL CAMPAIGNS.

12 "The General Assembly of North Carolina enacts:

13 "Section 1. Chapter 163 of the General Statutes is amended by adding a new Article  
14 to read:

15 **'ARTICLE 22C.**

16 **'APPROPRIATIONS FROM THE**  
17 **NORTH CAROLINA CANDIDATES FINANCING FUND.**

18 '§ 163-278.46. Establishment of Candidates Fund; administrative expenses; financing  
19 in case of insufficiency.—**There is established in the State Treasury a**

1 North Carolina Candidates Financing Fund (Candidates Fund) to be  
2 administered by the State Board of Elections (State Board) in which shall  
3 be placed money contributed by taxpayers as provided in G.S. 105-  
4 163.16(f). If the money in the Candidates Fund is insufficient to fully  
5 fund qualifying candidates, available money shall be distributed  
6 proportionally.

7 '§ 163-278.47. Application; eligibility.—(a) Application. Each candidate for  
8 ~~Council of State—Governor~~ who seeks grants from the Candidates Fund shall file an  
9 application for the grants with the State Board on forms provided by the State Board.  
10 The candidate may file an application after being certified as a party's nominee for the  
11 office, but not after June 15.

12 (b) Notice of Other Applicants. By June 30, the State Board shall notify each  
13 candidate in a contest of all the applications made by candidates in the same contest.

14 (c) Eligibility. To be eligible to receive grants from the Candidates Fund, a  
15 candidate shall have opposition on the ballot in the general election and shall:

- 16 (1) Agree to abide by the expenditure limits provided in G.S. 163-278.48,
- 17 (2) Raise qualifying matching contributions equal to five percent (5%) of  
18 the expenditure limit. "Qualifying matching contributions" are those  
19 from political committees or individuals. They are limited to  
20 contributions raised after the candidate's certification as nominee, or  
21 raised before his certification but left unspent after certification.
- 22 (3) Agree to submit to a postelection audit of the campaign account by the  
23 State Board.

24 '§ 163-278.48. Expenditure limits.—(a) Limitation Formulas. Any candidate  
25 for ~~Council of State—Governor~~ who requests grants from the Candidates Fund shall limit  
26 total expenditures after certification as party nominee as follows:

- 27 (1) ~~Governor:—~~One dollar (\$1.00) times the number of votes cast for  
28 Governor in the last general election in which more than one candidate  
29 appeared on the ballot for Governor.
- 30 (2) ~~Council of State office other than Governor: Fifty cents (50¢) times~~  
31 ~~the number of votes cast for Governor in the last general election in~~  
32 ~~which more than one candidate appeared on the ballot for Governor.~~

33 '§ 163-278.49. Qualified campaign expenditures.—**A candidate may use the money**  
34 **received from the Candidates Fund under this Article only to further**  
35 **that candidate's election to office through expenditures allowable under**  
36 **North Carolina law.**

37 '§ 163-278.50. Distribution of funds.—(a) Certification and Notice. The State  
38 Board shall review each request for grants from the Candidates Fund and certify by July  
39 15 before the general election whether the candidate is eligible to receive them. The  
40 State Board shall notify the candidate of the certification decision in that candidate's  
41 case within seven days after the decision is made.

42 (b) Formula for Distribution. A candidate certified to receive money from the  
43 Candidates Fund shall be entitled to distribution of funds on a one-to-one basis for all  
44 qualifying matching contributions as defined in G.S. 163-278.47. No candidate,

1 however, shall receive money from the Candidates Fund in excess of half the amount of  
2 that candidate's expenditure limit under G.S. 163-278.48.

3 (c) Reporting. Certification and distribution of funds shall be based on  
4 contributions to the candidate reported pursuant to G.S. 163-278.9 and pursuant to this  
5 section. In addition to the reports required in G.S. 163-278.9, a candidate who seeks to  
6 receive contributions from the Candidates Fund shall file a report of contributions and  
7 expenditures at each of the following times before the general election:

8 (1) The second Wednesday in August, and

9 (2) The second Wednesday in September.

10 Those two reports shall be filed on forms prescribed by the State Board. The State  
11 Board may prescribe separate forms on which candidates who seek grants from the  
12 Candidates Fund shall file the other reports required by G.S. 163-278.9.

13 (d) Timetable for Distribution. Funds shall be distributed to candidates by  
14 September 1 before the general election, based on the August reports required in  
15 subsection (c) of this section. Further distribution shall be made within seven days after  
16 the filing of each succeeding pre-election contribution report required by this section or  
17 by G.S. 163-278.9.

18 '§ 163-278.51. Withdrawal of application.—(a) Regular Deadline for  
19 Withdrawal. A candidate, by written notice to the State Board before July 10, may  
20 withdraw application to receive money from the Candidates Fund.

21 (b) Extended Deadline for Withdrawal. Notwithstanding the provisions of  
22 subsection (a) of this section, if withdrawal by any other candidate or candidates leaves  
23 a person as the only candidate in a contest applying for money from the Candidates  
24 Fund, that candidate may withdraw by written notice to the State Board before August  
25 22.

26 (c) Consequences of Withdrawal. A candidate shall receive no money from the  
27 Candidates Fund after that candidate's notice of withdrawal. The candidate will not be  
28 subject to the limitations or penalties of this Article if the candidate makes a timely  
29 withdrawal.

30 (d) Vacancies and Replacement Nominees. If a party nominee who has been  
31 certified to receive money from the Candidates Fund dies, resigns, or for any reason  
32 becomes ineligible or disqualified before the general election but after the applicable  
33 deadline in subsection (a) or (b) of this section, that candidate's application for the  
34 Candidates Fund is automatically withdrawn without penalty, but the candidate shall  
35 return all money received from the Candidates Fund that is unspent at the time that  
36 candidate leaves the race. If the nominee is replaced, the new candidate may either:

37 (1) Forego participation in the Candidates Fund; in that case, the new  
38 candidate will:

39 a. Not be eligible for any of the money the former candidate  
40 received or became entitled to before leaving the race, and

41 b. Not be subject to the expenditure limit, or

42 (2) Assume the position of the former candidate with respect to the  
43 Candidates Fund; in that case, the new candidate will:

- 1 a. Be eligible for the unspent money the former candidate returned  
2 to the Candidates Fund, and for any money to which the former  
3 candidate had become entitled through qualifying matching  
4 contributions but had not received before leaving the race, and  
5 b. Be eligible for any money from the Fund the new candidate  
6 may earn through qualifying matching contributions, and  
7 c. Be subject to the remainder of the former candidate's  
8 expenditure limit, and  
9 d. Be subject to all other requirements for participation in the  
10 Candidates Fund that the candidate's late entry into the race do  
11 not make inappropriate.

12 If the new candidate elects to forego the Candidates Fund, any other candidate in the  
13 race may withdraw his application within seven days after the new candidate has  
14 notified the State Board of a decision to forego the Candidates Fund, if the candidate  
15 seeking to withdraw is left as the only publicly funded candidate in the race. A  
16 candidate who withdraws from participation in the Candidates Fund under the  
17 circumstances set out in this paragraph must return all money received from the  
18 Candidates Fund at the time of withdrawal.

19 '§ 163-278.52. Penalties; fines.—**In addition to any other penalties which may be**  
20 **applicable under this Chapter, any candidate who receives contributions**  
21 **from the Candidates Fund and who exceeds the applicable expenditure**  
22 **limit or falsely reports qualifying matching contributions and thereby**  
23 **receives contributions from the Candidates Fund to which the candidate**  
24 **was not entitled shall be fined an amount equal to the amount at issue**  
25 **plus ten percent (10%).**

26 '§ 163-278.53. Criminal punishment.—**Any individual, person, candidate, political**  
27 **committee, or treasurer who willfully and intentionally violates any of**  
28 **the provisions of this Article, shall be guilty of a Class J felony.**

29 '§ 163-278.54. Sixty-day post-election report to State Board; audit.—**(a) Maintenance**  
30 **of Records. The treasurer of each candidate shall keep a complete**  
31 **record of receipts from the Candidates Fund and of all subsequent**  
32 **expenditures and disbursements, substantiated by any records, receipts,**  
33 **and information that the State Director of Elections shall require.**

34 (b) Sixty-day Report. By 60 days after each general election, the treasurer of  
35 each candidate receiving funds from the Candidates Fund in that general election  
36 campaign shall file with the State Board an itemized statement reporting all receipts of  
37 Candidates Fund monies and of all subsequent expenditures and disbursements and  
38 attach to the report the treasurer's verification that all funds were spent in accordance  
39 with the provisions of this Article.

40 (c) Audit. The State Board shall conduct an audit of the 60-day post-election  
41 report. If the Secretary of the State Board finds that any funds were not disbursed or  
42 expended in accordance with this Article, the Secretary shall order the candidate to  
43 reimburse to the Candidates Fund the amount improperly expended or disbursed.

1 '§ 163-278.55. Return of unspent money within 90 days of election.—**Any money a**  
2 **candidate receives from the Candidates Fund that is unspent within 90**  
3 **days after the general election shall be returned to the Candidates Fund.**  
4 **One-half of any amount in the candidate's campaign account required by**  
5 **G.S. 163-278.8 shall be deemed to be money received from the**  
6 **Candidates Fund; provided that if, pursuant to G.S. 163-278.46, the**  
7 **candidate received grants from the Candidates Fund on less than a one-**  
8 **to-one ratio, the same proportion of the candidate's campaign account**  
9 **shall be deemed to be money received from the Candidates Fund.**

10 '§ 163-278.56. Duties of the State Board.—**The State Board shall establish rules for**  
11 **the administration and enforcement of this Article.**

12 '§ 163-278.57. Definitions.—**The terms "candidate," "expend," "individual,"**  
13 **"person," and "treasurer" as used in this Article shall be as defined in**  
14 **G.S. 163-278.6.'**

15 "Sec. 2. G.S. 105-163.16 is amended by adding at the end a new subsection to read:

16 '(f) Any taxpayer who shall be entitled to a refund of taxes withheld or estimated  
17 taxes paid as provided by this section may elect to contribute all or any part of such  
18 refund to the North Carolina Candidates Financing Fund for the use of political  
19 campaigns as provided in Article 22C of Chapter 163 of the General Statutes. The  
20 Secretary shall provide appropriate language and space on the individual income tax  
21 form in which to make such election and shall note the same in his instructions as a  
22 contribution qualifying as a deduction under G.S. 105-147(16). Any such election shall  
23 become irrevocable upon filing the taxpayer's income tax return for the taxable year.  
24 The Secretary shall, on a quarterly basis, transmit the remainder of such contributions to  
25 the State Treasurer for deposit in the North Carolina Candidates Financing Fund. Any  
26 interest earned on funds so deposited shall be credited to that Fund.'

27 "Sec. 3. Article 22B of Chapter 163 of the General Statutes is amended by deleting  
28 the phrase 'North Carolina Election Campaign Fund' or 'North Carolina Campaign  
29 Election Fund' wherever it appears and substituting 'North Carolina Political Parties  
30 Financing Fund' for the first reference and 'Political Parties Fund' for the second and  
31 subsequent references.

32 "Sec. 4. The Secretary of Revenue, the State Treasurer, and the Executive Secretary-  
33 Director of the State Board of Elections shall monitor and evaluate the response of the  
34 taxpayers and the growth of the Candidates Fund and each shall report to the General  
35 Assembly by May 15, 1991, and again by May 15, 1993, and again by May 15, 1995.  
36 The 1991-1995 General Assembly is urged to review those reports and to determine if  
37 enough money has accumulated in the Candidates Fund to warrant distribution  
38 according to Section 1 of this act. If the 1991-1995 General Assembly determines that  
39 an insufficient amount of money has accumulated to warrant proceeding with Section 1  
40 of this act, the money that has accumulated in the Candidates Fund shall be transferred  
41 to the General Fund.

42 "Sec. 5. Section 1 of this act shall become effective January 1, 1992-1996. The  
43 remainder of this act is effective for taxable years beginning on or after January 1,  
44 1988."

1           Sec. 2. This act is effective upon ratification.