

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1737  
Committee Substitute Favorable 5/21/07

Short Title: Legal Expense Funds.

(Public)

Sponsors:

Referred to:

April 19, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE LEGAL EXPENSE FUNDS OF ELECTED OFFICERS TO  
3 PROVIDE FOR DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES  
4 AND NOT TO LIMIT CONTRIBUTIONS AND EXPENDITURES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Subchapter VIII of Chapter 163 is amended to add a new  
7 Article to read:

8 "Article 22M.

9 "Legal Expense Funds.

10 **"§ 163-278.300. Definitions.**

11 As used in this Article, the following terms mean:

12 (1) Board. – The State Board of Elections.

13 (2) Contribution. – As defined in G.S. 163-278.6.

14 (3) Elected officer. – Any individual serving in or seeking an elected  
15 office in this State. An individual is seeking elected office when that  
16 person has filed any notice, petition, or other document required by  
17 law or local act.

18 (4) Expenditure. – As defined in G.S. 163-278.6.

19 (5) Legal expense fund. – Any collection of money for the purpose of  
20 funding a legal action, or a potential legal action, taken by or against  
21 an elected officer in that elected officer's official capacity.

22 (6) Person. – An individual, firm, partnership, committee, association,  
23 corporation, business, or other organization or group of persons acting  
24 together. 'Person' shall not include the State of North Carolina or any  
25 of its political subdivisions.

26 (7) Treasurer. – An individual appointed by an elected officer or other  
27 person or group of persons collecting money for a legal expense fund.

28 **"§ 163-278.301. Creation of legal expense funds.**

1       (a) An elected officer, or another person or group of persons on the elected  
2 officer's behalf, shall create a legal expense fund if given a contribution for any of the  
3 following purposes:

4           (1) To fund an existing legal action taken by or against the elected officer  
5 in that elected officer's official capacity.

6           (2) To fund a potential legal action, taken by or against an elected officer  
7 in that elected officer's official capacity.

8       (b) This section shall not apply to any contribution to the State or any of its  
9 political subdivisions.

10       (c) The legal expense fund shall comply with all provisions of this Article.

11       (d) A violation of this Article shall be punishable as a Class 1 misdemeanor.

12 **"§§ 163-278.302 through 163-278.305: Reserved for future codification purposes.**

13 **"§ 163-278.306. Treasurer.**

14       (a) Each legal expense fund shall appoint a treasurer and, under verification,  
15 report the name and address of the treasurer to the Board.

16       (b) A legal expense fund may remove its treasurer. In case of the death,  
17 resignation, or removal of its treasurer, the legal expense fund shall appoint a successor  
18 within 10 calendar days of the vacancy and certify the name and address of the  
19 successor in the same manner provided in the case of an original appointment.

20       (c) Every treasurer of a legal expense fund shall receive training from the Board  
21 as to the duties of the office within three months of appointment and at least once every  
22 four years thereafter.

23 **"§ 163-278.307. Detailed accounts to be kept by treasurer.**

24       (a) The treasurer of each legal expense fund shall keep detailed accounts, current  
25 within seven calendar days after the date of receiving a contribution or making an  
26 expenditure, of all contributions received and all expenditures made by or on behalf of  
27 the legal expense fund.

28       (b) Accounts kept by the treasurer of a legal expense fund or the accounts of a  
29 treasurer or legal expense fund at any bank or other depository may be inspected by a  
30 member, designee, agent, attorney, or employee of the Board who is making an  
31 investigation pursuant to G.S. 163-278.22.

32       (c) For purposes of this section, "detailed accounts" shall mean at least all  
33 information required to be included in the quarterly report required under this Article.

34       (d) When a treasurer shows that best efforts have been used to obtain, maintain,  
35 and submit the information required by this Article, any report of the legal expense shall  
36 be considered in compliance with this Article and shall not be the basis for criminal  
37 prosecution or the imposition of civil penalties. The State Board of Elections shall adopt  
38 rules to implement this subsection.

39 **"§ 163-278.308. Reports filed with Board.**

40       (a) The treasurer of each legal expense fund shall file with the Board the  
41 following reports:

42           (1) Organizational report. – The report required under G.S. 163-278.309.

43           (2) Quarterly report. – The report required under G.S. 163-278.310.

1       **(b) Any report or attachment required by this Article must be filed under**  
2 **certification of the treasurer as true and correct to the best of the knowledge of that**  
3 **officer.**

4       **(c) The organizational report shall be filed within 10 calendar days of the**  
5 **creation of the legal expense fund. All quarterly reports shall be filed with the Board no**  
6 **later than 10 business days after the end of each calendar quarter.**

7       **(d) Treasurers shall electronically file each report required by this section that**  
8 **shows a cumulative total for the quarter in excess of five thousand dollars (\$5,000) in**  
9 **contributions or expenditures, according to rules adopted by the Board. The Board shall**  
10 **provide the software necessary to the treasurer to file the required electronic report at no**  
11 **cost to the legal expense fund.**

12 **"§ 163-278.309. Organizational report.**

13       **(a) Each appointed treasurer shall file with the Board a statement of organization**  
14 **that includes all of the following:**

15           **(1) The name, address, and purpose of the legal expense fund.**

16           **(2) The names, addresses, and relationships of affiliated or connected**  
17 **elected officers, candidates, political committees, referendum**  
18 **committees, political parties, or similar organizations.**

19           **(3) The name, address, and position with the legal expense fund of the**  
20 **custodian of books and accounts.**

21           **(4) A listing of all banks, safety deposit boxes, or other depositories used,**  
22 **including the names and numbers of all accounts maintained and the**  
23 **numbers of all such safety deposit boxes used. The Board shall keep**  
24 **any account number required by this Article confidential except as**  
25 **necessary to conduct an audit or investigation, except as required by a**  
26 **court of competent jurisdiction, or except as confidentiality is waived**  
27 **by the treasurer. Disclosure of an account number in violation of this**  
28 **subdivision shall not give rise to a civil cause of action. This limitation**  
29 **of liability does not apply to the disclosure of account numbers in**  
30 **violation of this subdivision as a result of gross negligence, wanton**  
31 **conduct, or intentional wrongdoing that would otherwise be**  
32 **actionable.**

33           **(5) The name or names and address or addresses of any assistant treasurers**  
34 **appointed by the treasurer. Such assistant treasurers shall be authorized**  
35 **to act in the name of the treasurer, who shall be fully responsible for**  
36 **any act or acts committed by an assistant treasurer, and the treasurer**  
37 **shall be fully liable for any violation of this Article committed by any**  
38 **assistant treasurer.**

39           **(6) Any other information which might be requested by the Board that**  
40 **deals with the legal expense fund organization.**

41       **(b) Any change in information previously submitted in a statement of**  
42 **organization shall be reported to the Board within 10 calendar days following the**  
43 **change.**

44 **"§ 163-278.310. Quarterly report.**

1       The treasurer of each legal expense fund shall be required to file a quarterly report  
2 with the Board containing all of the following:

3           (1) Contributions. – The name and complete mailing address of each  
4 contributor, the amount of the contribution, the principal occupation of  
5 the contributor, and the date the contribution was received. The total  
6 sum of all contributions to date shall also be plainly exhibited. The  
7 treasurer is not required to report the name of any contributor making a  
8 total contribution of fifty dollars (\$50.00) or less in a calendar quarter,  
9 but shall instead report the fact that the treasurer has received a total  
10 contribution of fifty dollars (\$50.00) or less, the amount of the  
11 contribution, and the date of receipt.

12           (2) Expenditures. – A list of all expenditures made by or on behalf of the  
13 legal expense fund. The report shall list the name and complete  
14 mailing address of each payee, the amount paid, the purpose, and the  
15 date such payment was made. The total sum of all expenditures to date  
16 shall also be plainly exhibited. The payee shall be the individual or  
17 person to whom the legal expense fund is obligated to make the  
18 expenditure. If the expenditure is to a financial institution for revolving  
19 credit or a reimbursement for a payment to a financial institution for  
20 revolving credit, the statement shall also include a specific itemization  
21 of the goods and services purchased with the revolving credit. If the  
22 obligation is for more than one good or service, the statement shall  
23 include a specific itemization of the obligation so as to provide a  
24 reasonable understanding of the obligation.

25           (3) Loans. – All proceeds from loans shall be recorded separately with a  
26 detailed analysis reflecting the amount of the loan, the source, the  
27 period, the rate of interest, and the security pledged, if any, and all  
28 makers and endorsers.

29 **“§§ 163-278.311 through 163-278.315: Reserved for future codification purposes.**

30 **“§ 163-278.316. Limitations on contributions.**

31           (a) No person shall make, and no treasurer shall accept, any monetary  
32 contribution in excess of fifty dollars (\$50.00) unless such contribution is in the form of  
33 a check, draft, money order, credit card charge, debit, or other noncash method that can  
34 be subject to written verification. No contribution in the form of check, draft, money  
35 order, credit card charge, debit, or other noncash method may be made or accepted  
36 unless it contains a specific designation of the intended contributee chosen by the  
37 contributor.

38           (b) The State Board of Elections may adopt rules as to the reporting and  
39 verification of any method of contribution payment allowed under this Article. For  
40 contributions by money order, the State Board shall adopt rules to ensure an audit trail  
41 for every contribution so that the identity of the contributor can be determined.

42           (c) For any contribution made by credit card, the credit card account number of a  
43 contributor is not a public record.

44 **“§§ 163-278.317 through 163-278.319: Reserved for future codification purposes.**

1 **"§ 163-278.320. Permitted uses of legal expense funds.**

2 (a) A legal expense fund may be used for reasonable expenses actually incurred  
3 by the elected officer in relation to a legal action or potential legal action brought by or  
4 against the elected officer in that elected officer's official capacity.

5 (b) Upon completion of the legal action or potential legal action, the remaining  
6 monies in the legal expense fund shall be distributed to either the Indigent Persons'  
7 Attorney Fee Fund or to the North Carolina State Bar for the provision of civil legal  
8 services for indigents.

9 **"§§ 163-278.321 through 163-278.329: Reserved for future codification purposes."**

10 **SECTION 2.** G.S. 163-278.22(7) reads as rewritten:

11 "(7) To make investigations to the extent the Board deems necessary with  
12 respect to statements filed under the provisions of this Article and with  
13 respect to alleged failures to file any statement required under the  
14 provisions of this ~~Article~~, Article or Article 22M and, upon complaint  
15 under oath by any registered voter, with respect to alleged violations of  
16 any part of this ~~Article~~. Article or Article 22M."

17 **SECTION 3.** G.S. 163-278.22(8) reads as rewritten:

18 "(8) After investigation, to report apparent violations by candidates,  
19 political committees, referendum committees, legal expense funds,  
20 individuals or persons to the proper district attorney as provided in  
21 G.S. 163-278.27."

22 **SECTION 4.** G.S. 163-278.36 is repealed.

23 **SECTION 5.** This act becomes effective January 1, 2008.