

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1764

Short Title: Public Campaign Fund Amendments.

(Public)

Sponsors: Representatives Culpepper; Glazier, Luebke, and Ross.

Referred to: Rules, Calendar, and Operations of the House.

May 31, 2004

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A SURCHARGE ON MEMBERSHIP FEES FOR
2 ATTORNEYS AND TO USE THE REVENUE TO SUPPORT THE FUND FOR
3 ELECTION OF AN IMPARTIAL JUDICIARY; TO REMOVE THE ATTORNEY
4 PRIVILEGE LICENSE TAX AS A MECHANISM FOR COLLECTING
5 DONATIONS TO THE FUND; TO ALLOW THE STATE BOARD OF
6 ELECTIONS TO ADMINISTER THE FUND OUT OF OTHER MONIES
7 AVAILABLE TO IT; TO ALLOW CERTIFIED CANDIDATES TO RAISE
8 FUNDS PRIVATELY IF PUBLIC FUNDS ARE INSUFFICIENT; TO
9 ALLOCATE FIFTY CENTS TO SUPPORT PUBLICATION OF A VOTER
10 GUIDE PER EACH TAXPAYER WHO NEITHER AGREES NOR OBJECTS TO
11 DESIGNATING THREE DOLLARS FOR THE FUND; TO PROVIDE THAT THE
12 FUND IS NOT AVAILABLE TO CANDIDATES IN PLURALITY ELECTIONS
13 UNDER G.S. 163-329 AND THAT THOSE CANDIDATES ARE NOT SUBJECT
14 TO LOWERED CONTRIBUTION LIMITS; TO ALTER THE TRIGGER FOR
15 RESCUE FUNDS; TO PROVIDE THAT ADVISORY COUNCIL TERMS END
16 DECEMBER 31; TO CHANGE THE NAME OF THE FUND TO "NORTH
17 CAROLINA PUBLIC CAMPAIGN FUND," TO SET THE LIMIT OF THE
18 CANDIDATE'S STATEMENT FOR THE JUDICIAL VOTER GUIDE AT 200
19 WORDS; AND TO MAKE TECHNICAL CORRECTIONS TO THE JUDICIAL
20 CAMPAIGN REFORM ACT OF 2002.
21

22 The General Assembly of North Carolina enacts:

23 **SECTION 1.** G.S. 84-34 reads as rewritten:

24 **"§ 84-34. Membership fees and list of members.**

25 Every active member of the North Carolina State Bar shall, prior to the first day of
26 July of each year, pay to the secretary-treasurer an annual membership fee in an amount
27 determined by the Council but not to exceed two hundred dollars (\$200.00), plus a
28 surcharge of fifty dollars (\$50.00) for the implementation of Article 22D of Chapter 163
29 of the General Statutes, and every member shall notify the secretary-treasurer of the

1 member's correct mailing address. Any member who fails to pay the required dues by
2 the last day of June of each year shall be subject to a late fee in an amount determined
3 by the Council but not to exceed thirty dollars (\$30.00). All dues for prior years shall be
4 as were set forth in the General Statutes then in effect. The membership fee shall be
5 regarded as a service charge for the maintenance of the several services authorized by
6 this Article, and shall be in addition to all fees required in connection with admissions to
7 practice, and in addition to all license taxes required by law. The fee shall not be
8 prorated: Provided, that no fee shall be required of an attorney licensed after this Article
9 shall have gone into effect until the first day of January of the calendar year following
10 that in which the attorney was licensed; but this proviso shall not apply to attorneys
11 from other states admitted on certificate. The fees shall be disbursed by the
12 secretary-treasurer on the order of the Council. The fifty-dollar (\$50.00) surcharge shall
13 be sent on a monthly schedule to the State Board of Elections. The secretary-treasurer
14 shall annually, at a time and in a law magazine or daily newspaper to be prescribed by
15 the Council, publish an account of the financial transactions of the Council in a form to
16 be prescribed by it. The secretary-treasurer shall compile and keep currently correct
17 from the names and mailing addresses forwarded to the secretary-treasurer and from any
18 other available sources of information a list of members of the North Carolina State Bar
19 and furnish to the clerk of the superior court in each county, not later than the first day
20 of October in each year, a list showing the name and address of each attorney for that
21 county who has not complied with the provisions of this Article. The name of each of
22 the active members who are in arrears in the payment of membership fees shall be
23 furnished to the presiding judge at the next term of the superior court after the first day
24 of October of each year, by the clerk of the superior court of each county wherein the
25 member or members reside, and the court shall thereupon take action that is necessary
26 and proper. The names and addresses of attorneys so certified shall be kept available to
27 the public. The Secretary of Revenue is hereby directed to supply the
28 secretary-treasurer, from records of license tax payments, with any information for
29 which the secretary-treasurer may call in order to enable the secretary-treasurer to
30 comply with this requirement.

31 The list submitted to several clerks of the superior court shall also be submitted to
32 the Council at its October meeting of each year and it shall take the action thereon that
33 is necessary and proper."

34 **SECTION 2.** G.S. 163-278.63(b) reads as rewritten:

35 (b) Sources of Funding. – Money received from all the following sources must be
36 deposited in the Fund:

- 37 (1) Money from the North Carolina Candidates Financing Fund.
- 38 (2) Designations made to the Public Campaign ~~Financing~~ Fund by
39 individual taxpayers pursuant to G.S. 105-159.2.
- 40 ~~(3) Any contributions made by attorneys in accordance with G.S. 105-41.~~
- 41 (4) Public Campaign ~~Financing~~ Fund revenues distributed for an election
42 that remain unspent or uncommitted at the time the recipient is no
43 longer a certified candidate in the election.

- 1 (5) Money ordered returned to the Public Campaign ~~Financing~~ Fund in
2 accordance with G.S. 163-278.70.
- 3 (6) Voluntary donations made directly to the Public Campaign ~~Financing~~
4 Fund. Corporations, other business entities, labor unions, and
5 professional associations may make donations to the Fund.
- 6 (7) Money collected from the fifty-dollar (\$50.00) surcharge on attorney
7 membership fees in G.S. 84-34.

8 **SECTION 3.** G.S. 105-41(a)(1) reads as rewritten:

9 "(1) An attorney-at-law. ~~In addition to the tax, whenever an attorney pays~~
10 ~~the tax, the Department must give that attorney an opportunity to make~~
11 ~~a contribution of fifty dollars (\$50.00) to support the North Carolina~~
12 ~~Public Campaign Financing Fund established by G.S. 163-278.63.~~
13 ~~Payment of the contribution is not required and is not considered part~~
14 ~~of the tax owed."~~

15 **SECTION 4.** G.S. 163-278.63(a) reads as rewritten:

16 "(a) Establishment of Fund. – The North Carolina Public Campaign ~~Financing~~
17 Fund is established to finance the election campaigns of certified candidates for office
18 and to pay administrative and enforcement costs of the Board related to this Article. The
19 Fund is a special, dedicated, nonlapsing, nonreverting fund. All expenses of
20 administering this Article, ~~including production and distribution of the Voter Guide~~
21 ~~required by G.S. 163-278.69 and personnel and other costs incurred by the Board,~~
22 except those paid by funds received by the State Board of Elections, shall be paid from
23 the Fund and not from the General Fund. Any interest generated by the Fund is credited
24 to the Fund. The Board shall administer the Fund."

25 **SECTION 5.** G.S. 163-278.65(c) reads as rewritten:

26 "(c) Method of Fund Distribution. – The Board, in consultation with the State
27 Treasurer and the State Controller, shall develop a rapid, reliable method of conveying
28 funds to certified candidates. In all cases, the Board shall distribute funds to certified
29 candidates in a manner that is expeditious, ensures accountability, and safeguards the
30 integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified
31 candidates, then the available money shall be distributed proportionally, according to
32 each candidate's eligible ~~funding~~, funding, and the candidate may raise additional
33 money in the same manner as a noncertified candidate for the same office to replace
34 eligible funding not received."

35 **SECTION 6.** G.S. 105-159.2(a) reads as rewritten:

36 "(a) Allocation to the North Carolina Public Campaign ~~Financing~~ Fund. – To
37 ensure the financial viability of the North Carolina Public Campaign ~~Financing~~ Fund
38 established in Article 22D of Chapter 163 of the General Statutes, the Department must
39 allocate to that Fund three dollars (\$3.00) from the income taxes paid each year by each
40 individual with an income tax liability of at least that amount, if the individual agrees. A
41 taxpayer must be given the opportunity to indicate an agreement or objection to that
42 allocation in the manner described in subsection (b) of this section. In the case of a
43 married couple filing a joint return, each individual must have the option of agreeing or
44 objecting to the allocation. To help pay for the voter education and administrative

1 expenses authorized by Article 22D of Chapter 163 of the General Statutes, the
2 Department must credit to the Fund the equivalent of fifty cents (50¢) for each taxpayer
3 with a tax liability who makes no choice, neither agreeing nor objecting. The amounts
4 allocated under this subsection to the Fund must be credited to it on a ~~quarterly~~ monthly
5 basis."

6 **SECTION 7.** Wherever the term "Public Campaign Financing Fund"
7 appears in the General Statutes, it shall read "Public Campaign Fund."

8 **SECTION 8.** G.S. 163-278.61 reads as rewritten:

9 **§ 163-278.61. Purpose of the North Carolina Public Campaign Financing Fund.**

10 The purpose of this Article is to ensure the fairness of democratic elections in North
11 Carolina and to protect the constitutional rights of voters and candidates from the
12 detrimental effects of increasingly large amounts of money being raised and spent to
13 influence the outcome of elections, those effects being especially problematic in
14 elections of the judiciary, since impartiality is uniquely important to the integrity and
15 credibility of the courts. Accordingly, this Article establishes the North Carolina Public
16 Campaign ~~Financing~~ Fund as an alternative source of campaign financing for candidates
17 who demonstrate public support and voluntarily accept strict fund-raising and spending
18 limits. ~~This~~ Except in the case of a plurality election described in G.S. 163-329, this
19 Article is available to candidates for justice of the Supreme Court and judge of the
20 Court of Appeals in elections to be held in 2004 and thereafter."

21 **SECTION 9.** G.S. 163-278.62(12) reads as rewritten:

22 "(12) Office. – A ~~position~~ specified seat on the North Carolina Court of
23 Appeals or North Carolina Supreme Court. A candidate for one of
24 those positions, however, is not eligible to be a participating or
25 certified candidate under this Article if the election is a plurality
26 election under G.S. 163-329."

27 **SECTION 10.** G.S. 163-278.64 is amended by adding a new subsection to
28 read:

29 "(f) **One Office Per Election Year.** – A candidate may not receive disbursements
30 from the Fund for more than one specified office in an election year."

31 **SECTION 11.** G.S. 163-278.13(e) and (e2) read as rewritten:

32 "(e) ~~This~~ Except as provided in subsection (e2) of this section, this section shall
33 not apply to any national, State, district or county executive committee of any political
34 party. For the purposes of this section only, the term "political party" means only those
35 political parties officially recognized under G.S. 163-96.

36 ...

37 (e2) In order to make meaningful the provisions of Article 22D of this Chapter,
38 the following provisions shall apply with respect to candidates for justice of the
39 Supreme Court and judge of the Court of Appeals:

- 40 (1) No candidate shall accept, and no contributor shall make to that
41 candidate, a contribution in any election exceeding one thousand
42 dollars (\$1,000) except as provided for elsewhere in this subsection.
43 (2) A candidate may accept, and a family contributor may make to that
44 candidate, a contribution not exceeding two thousand dollars (\$2,000)

1 in an election if the contributor is that candidate's parent, child,
 2 brother, or sister.

- 3 (3) No candidate shall accept, and no contributor shall make to that
 4 candidate, a contribution during the period beginning 21 days before
 5 the day of the general election and ending the day after the general
 6 election. This subdivision applies with respect to a candidate opposed
 7 in the general election by a certified candidate as defined in Article
 8 22D of this Chapter who has not received the maximum rescue funds
 9 available under G.S. 163-278.67. The recipient of a contribution that
 10 apparently violates this subdivision has three days to return the
 11 contribution or file a detailed statement with the State Board of
 12 Elections explaining why the contribution does not violate this
 13 subdivision.

14 As used in this subsection, "candidate" is also a political committee authorized by
 15 the candidate for that candidate's election. Nothing in this subsection shall prohibit a
 16 candidate or the spouse of that candidate from making a contribution or loan secured
 17 entirely by that individual's assets to that candidate's own campaign.

18 The provisions of this subsection do not apply to a candidate for Supreme Court or
 19 Court of Appeals where the election is a plurality election under G.S. 163-329."

20 **SECTION 12.** G.S. 163-278.64(c) reads as rewritten:

21 "(c) Certification of Candidates. – Upon receipt of a submittal of the record of
 22 demonstrated support by a participating candidate, the Board shall determine whether or
 23 not the candidate has complied with all the following requirements, ~~if they apply to that~~
 24 ~~candidate:~~ requirements:

- 25 (1) Signed and filed a declaration of intent to participate in this Article.
 26 (2) Submitted a report itemizing the appropriate number of qualifying
 27 contributions received from registered voters, which the Board shall
 28 verify through a random sample or other means it adopts. The report
 29 shall include the county of residence of each registered voter listed.
 30 (3) Qualified to receive votes on the ballot as a candidate for the office.
 31 (4) Otherwise met the requirements for participation in this Article.

32 The Board shall certify candidates complying with the requirements of this section
 33 as soon as possible and no later than five business days after receipt of a satisfactory
 34 record of demonstrated support."

35 **SECTION 13.** G.S. 163-278.66 reads as rewritten:

36 "(a) Reporting by Noncertified Candidates and Independent Expenditure Entities.
 37 – Any noncertified candidate with a certified opponent shall report total income,
 38 expenses, and obligations to the Board by facsimile machine or electronically within 24
 39 hours after the total amount of campaign expenditures or obligations made, or funds
 40 raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as
 41 defined in G.S. 163-278.62(18). Any entity making independent expenditures ~~in excess~~
 42 ~~of three thousand dollars (\$3,000)~~ in support of or opposition to a certified candidate or
 43 in support of a candidate opposing a certified candidate shall report the total funds
 44 received, spent, or obligated for those expenditures to the Board by facsimile machine

1 or electronically within 24 hours after the total amount of expenditures or obligations
2 made, or funds raised or borrowed, for the purpose of making the independent
3 expenditures, exceeds ~~fifty percent (50%) of the trigger for rescue funds. five thousand~~
4 dollars (\$5,000). After this 24-hour filing, the noncertified candidate or independent
5 expenditure entity shall comply with an expedited reporting schedule by filing
6 additional reports after receiving each additional amount in excess of one thousand
7 dollars (\$1,000) or after making or obligating to make each additional expenditure(s) in
8 excess of one thousand dollars (\$1,000). The schedule and forms for reports required by
9 this subsection shall be made according to procedures developed by the Board."

10 **SECTION 14.** G.S. 163-278.68(b) reads as rewritten:

11 "(b) Advisory Council for the Public Campaign ~~Finaneing~~ Fund. – There is
12 established under the Board the Advisory Council for the Public Campaign ~~Finaneing~~
13 Fund to advise the Board on the rules, procedures, and opinions it adopts for the
14 enforcement and administration of this Article and on the funding needs and operation
15 of the Public Campaign ~~Finaneing~~ Fund. The Advisory Council shall consist of five
16 members to be appointed as follows:

- 17 (1) The Governor shall name two members from a list of individuals
18 nominated by the State Chair of the political party with which the
19 greatest number of registered voters is affiliated. The State Chair of
20 that party shall submit to the Governor the names of five nominees.
- 21 (2) The Governor shall name two members from a list of individuals
22 nominated by the State Chair of the political party with which the
23 second greatest number of registered voters is affiliated. The State
24 Chair of that party shall submit to the Governor the names of five
25 nominees.
- 26 (3) The Board shall name one member by unanimous vote of all members
27 of the Board. If the Board cannot reach unanimity on the appointment
28 of that member, the Advisory Council shall consist of the remaining
29 members.

30 No individual shall be eligible to be a member of the Advisory Council who would
31 be ineligible to serve on a county board of elections in accordance with G.S. 163-30.
32 The initial members shall be appointed by December 1, 2002. Of the initial appointees,
33 two are appointed for one-year terms, two are appointed for two-year terms, and one is
34 appointed for a three-year term according to random lot. Thereafter, appointees are
35 appointed to serve four-year terms. An individual may not serve more than two full
36 ~~terms.~~ terms, except that regardless of the time of appointment each term shall end on
37 December 31. A member shall continue on the Advisory Council beyond the expired
38 term until a successor is appointed. The appointed members receive the legislative per
39 diem pursuant to G.S. 120-3.1. One of the Advisory Council members shall be elected
40 by the members as Chair. A vacancy during an unexpired term shall be filled in the
41 same manner as the regular appointment for that term, but a vacancy appointment is
42 only for the unexpired portion of the term."

43 **SECTION 15.** G.S. 163-278.69(b)(7) reads as rewritten:

1 "(b) Candidate Information. – The Judicial Voter Guide shall include information
2 concerning all candidates for the Supreme Court and the Court of Appeals, as provided
3 by those candidates according to a format provided to the candidates by the Board. The
4 Board shall request information for the Guide from each candidate according to the
5 following format:

6 (1) Place of residence.

7 (2) Education.

8 (3) Occupation.

9 (4) Employer.

10 (5) Date admitted to the bar.

11 (6) Legal/judicial experience.

12 (7) Candidate statement, limited to ~~450~~ 200 words. Concerning that
13 statement, the Board shall send to the candidates instructions as
14 follows: "Your statement may include information such as your
15 qualifications, your endorsements, your ratings, why you are seeking
16 judicial office, why you would make a good judge, what distinguishes
17 you from your opponent(s), your acceptance of spending and
18 fund-raising limits to qualify to receive funds from the Public
19 Campaign Financing Fund, and any other information relevant to your
20 candidacy. The State Board of Elections will reject any portion of any
21 statement which it determines contains obscene, profane, or
22 defamatory language. The candidate shall have three days to resubmit
23 the candidate statement if the Board rejects a portion of the statement."

24 **SECTION 16.** The chart in G.S. 163-1 is amended by deleting the entries for
25 "Justices and Judges of the Appellate Court Division," "Judges of the superior courts,"
26 and "Judges of the district courts."

27 **SECTION 17.** Sections 1, 2, and 3 of this act become effective January 1,
28 2005, and apply to the membership fees due for 2005. The remainder of this act is
29 effective when it becomes law.