

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1828
Committee Substitute Favorable 7/19/07
Committee Substitute #2 Favorable 7/24/07

Short Title: Strengthen Judicial Fund.

(Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE MATCHING FUNDS PROVISION OF THE
JUDICIAL PUBLIC CAMPAIGN ACT; AND TO APPROPRIATE FUNDS FOR
IMPLEMENTATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-278.66 reads as rewritten:

"§ 163-278.66. Reporting requirements.

(a) Reporting by Noncertified Candidates and Independent Expenditure Entities.

– Any noncertified candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24 hours after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for ~~reseue~~matching funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in support of or opposition to a certified candidate or in support of a candidate opposing a certified ~~candidate~~candidate, or paying for electioneering communications, referring to one of those candidates, shall report the total funds received, spent, or obligated for those expenditures or payments to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or obligations made, or funds raised or borrowed, for the purpose of making the independent ~~expenditures,~~ expenditures or electioneering communications exceeds five thousand dollars (\$5,000).

After this 24-hour filing, the noncertified candidate or ~~independent expenditure~~other reporting entity shall comply with an expedited reporting schedule by filing additional reports after receiving each additional amount in excess of one thousand dollars (\$1,000) or after making or obligating to make each additional expenditure(s) or payment(s) in excess of one thousand dollars (\$1,000). The schedule and forms for reports required by this subsection shall be made according to procedures developed by the Board.

1 (b) Reporting by Participating and Certified Candidates. – Notwithstanding other
2 provisions of law, participating and certified candidates shall report any money
3 received, including all previously unreported qualifying contributions, all campaign
4 expenditures, obligations, and related activities to the Board according to procedures
5 developed by the Board. A certified candidate who ceases to be certified or ceases to be
6 a candidate or who loses an election shall file a final report with the Board and return
7 any unspent revenues received from the Fund. In developing these procedures, the
8 Board shall utilize existing campaign reporting procedures whenever practical.

9 (c) Timely Access to Reports. – The Board shall ensure prompt public access to
10 the reports received in accordance with this Article. The Board may utilize electronic
11 means of reporting and storing information."

12 **SECTION 1.(b)** G.S. 163-278.67 reads as rewritten:

13 "**§ 163-278.67. Rescue Matching funds.**

14 (a) When ~~Rescue Matching Funds~~ Become Available. – When any report or
15 group of reports shows that "funds in opposition to a certified candidate or in support of
16 an opponent to that candidate" as described in this section, exceed the trigger for ~~rescue~~
17 matching funds as defined in G.S. 163-278.62(18), the Board shall issue immediately to
18 that certified candidate an additional amount equal to the reported excess within the
19 limits set forth in this section. "Funds in opposition to a certified candidate or in support
20 of an opponent to that candidate" shall be equal to the sum of ~~the following~~:
21 subdivisions (1) and (2) as follows:

22 ~~(1) Campaign expenditures or obligations made, or funds raised or~~
23 ~~borrowed, whichever is greater, reported by any one uncertified~~
24 ~~opponent of a certified candidate. Where a certified candidate has~~
25 ~~more than one uncertified opponent, the measure shall be taken from~~
26 ~~the uncertified candidate showing the highest relevant dollar amount.~~

27 ~~(2) The sum of all expenditures reported in accordance with~~
28 ~~G.S. 163-278.66 of entities making independent expenditures in~~
29 ~~opposition to the certified candidate or in support of any opponent of~~
30 ~~that certified candidate.~~

31 (1) The greater of the following:

32 a. Campaign expenditures or obligations made, or funds raised or
33 borrowed, whichever is greater, reported by any one
34 nonparticipating candidate who is an opponent of a certified
35 candidate. Where a certified candidate has more than one
36 nonparticipating candidate as an opponent, the measure shall be
37 taken from the nonparticipating candidate showing the highest
38 relevant dollar amount.

39 b. The funds distributed in accordance with G.S. 163-278.65(b) to
40 a certified opponent of the certified candidate.

41 (2) The aggregate total of all expenditures and payments reported in
42 accordance with G.S. 163-278.66(a) of entities making independent
43 expenditures or electioneering communications in opposition to the

1 certified candidate or in support of any opponent of that certified
2 candidate.

3 (b) Limit on ~~Rescue~~-Matching Funds in Contested Primary. – Total ~~rescue~~
4 matching funds to a certified candidate in a contested primary shall be limited to an
5 amount equal to two times the maximum qualifying contributions for the office sought.

6 (c) Limit on ~~Rescue~~-Matching Funds in Contested General Election. – Total
7 ~~rescue~~-matching funds to a certified candidate in a contested general election shall be
8 limited to an amount equal to two times the amount described in G.S. 163-278.65(b)(4).

9 (d) Determinations by Board. – In the case of electioneering communications, the
10 Board shall determine which candidate, if any, is entitled to receive matching funds as a
11 result of the communication. The Board shall issue matching funds based on the
12 communication only if it ascertains that the communication is susceptible of no
13 reasonable interpretation other than as an appeal to vote for or against a specific
14 candidate. In making its determination, the Board shall not consider evidence external to
15 the communication itself of the intent of the sponsor or the effect of the communication.
16 The Board shall notify each candidate it determines is entitled to receive matching funds
17 based on those communications, the sponsor of those communications, and any
18 candidate who is an opponent of the candidate it determines is entitled to the matching
19 funds. The Board shall give the sponsor of the communication and any opposing
20 candidate an adequate opportunity to rebut the determination of the Board. In
21 considering the rebuttal, all candidates in the race and the sponsor shall be given
22 adequate and equal opportunity to be heard. The Board shall adopt procedures for
23 implementing this subsection, balancing in those procedures adequacy of opportunity to
24 rebut and adequacy and equality of opportunity to be heard on the rebuttal with the need
25 to expedite the decision on awarding matching funds. The Board shall distribute the
26 matching funds, if any, at the conclusion of its process.

27 (e) Proportional Measuring of Multicandidate Communications. – In calculating
28 the amount of matching funds a certified candidate is eligible to receive under this
29 section, the Board shall include the proportion of expenditures, obligations, or payments
30 for multicandidate communications that pertain to the candidate."

31 **SECTION 1.(c)** Chapter 163 of the General Statutes is amended by deleting
32 the term "rescue" wherever it appears and substituting the term "matching."

33 **SECTION 1.(d)** G.S. 163-278.62 is amended by adding a new subdivision
34 to read:

35 "(5a) Electioneering communication. – As defined in G.S. 163-278.80 and
36 G.S. 163-278.90, except that it is made during the period beginning 30
37 days before absentee ballots become available for a primary and
38 ending on primary election day and during the period 60 days before
39 absentee ballots become available for a general election and ending on
40 general election day."

41 **SECTION 2.** G.S. 163-278.110 is amended by adding a new subdivision to
42 read:

43 "(8) Except as otherwise provided in this Article, the definitions in Article
44 22A of this Chapter apply in this Article."

1 **SECTION 3.(a)** There is appropriated from the General Fund to the State
2 Board of Elections for the 2007-2008 fiscal year the sum of twenty-five thousand
3 dollars (\$25,000) for the implementation of this act.

4 **SECTION 3.(b)** This section becomes effective July 1, 2007.

5 **SECTION 4.** Except as otherwise provided in this act, this act is effective
6 when it becomes law.