

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

FILED SENATE
Mar 25, 2015
S.B. 493
PRINCIPAL CLERK

S

D

SENATE DRS45236-MC-64A (02/27)

Short Title: Political Party Funding Via Tax Return. (Public)

Sponsors: Senators D. Davis, McKissick, and Lowe (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REENACT AND MODIFY THE NORTH CAROLINA POLITICAL PARTIES
3 FINANCING FUND AND THE MEANS BY WHICH THE FUND RECEIVES
4 FUNDING.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 22B of Chapter 163 of the General Statutes is reenacted as it
7 existed immediately before its repeal and reads as rewritten:

8 "Article 22B.

9 "Appropriations from the North Carolina Political Parties Financing Fund.

10 **"§ 163-278.41. Appropriations in general election years and other years.**

11 (a) Following the conclusion of the last primary or nominating convention held by a
12 political party in a general election year in which a presidential election is held, the State chair
13 of that political party may apply to the State Board of Elections (State Board) for the
14 disbursement of all funds deposited with the State Treasurer on behalf of that party in the North
15 Carolina Political Parties Financing Fund (Political Parties Fund) to be administered by the
16 State Board of Elections and in which shall be placed money contributed by taxpayers, as
17 provided in G.S. ~~105-159.1~~-105-269.8. If the regular date set for a primary in G.S. 163-1 or
18 nominating convention in G.S. 163-98 is temporarily postponed for one election year, the State
19 party chair may apply for the disbursement after the regular date set in those sections for that
20 party's primary or convention, even though the primary has not occurred under the temporary
21 schedule. Upon receipt of that application, the State Board shall forthwith, and every 30 days
22 thereafter, pay over to said chairman all funds currently held by the State Treasurer on behalf of
23 that chair's political party, but provided that all such payments shall cease 30 days after the
24 State Board of Elections has certified all of the results of the general election to the Secretary of
25 State. Upon receipt of that application, the State Board shall pay over to the chair all funds
26 currently held by the State Treasurer in the "Presidential Election Year Candidates Fund" of
27 that party, which funds shall be allocated and disbursed during the presidential election year by
28 the same procedure as the funds received from the Political Parties Fund are allocated. Any
29 remaining funds of the political party in the hands of the State Treasurer shall thereafter be held
30 by the State Treasurer until eligible for distribution pursuant to this section.

31 (b) Following the conclusion of the last primary or nominating convention held by a
32 political party in a general election year in which there is not a presidential election, the State
33 chair of the political party may apply to the State Board for the disbursement of all funds
34 deposited on behalf of such party in the Political Parties Fund. If the regular date set for a
35 primary in G.S. 163-1 or nominating convention in G.S. 163-98 is temporarily postponed for
36 one election year, the State party chair may apply for the disbursement after the regular date set



* D R S 4 5 2 3 6 - M C - 6 4 A *

1 in those sections for that party's primary or convention, even though the primary has not
2 occurred under the temporary schedule. Upon receipt of such application, the State Board shall
3 forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by
4 the State Treasurer on behalf of that chair's political party provided that all such payments to
5 the chairman shall cease 30 days after the State Board of Elections has certified all of the
6 results of the general election. Any remaining funds of the political party in the hands of the
7 State Treasurer shall thereafter be held by the State Treasurer until eligible for distribution
8 pursuant to this section.

9 (c) In each year in which no general election is held, each State chair of a political party
10 on behalf of which funds have been deposited in the Political Parties Fund may, on or between
11 August 1 and September 1 thereof, apply to the State Board for payment of an amount not to
12 exceed fifty percent (50%) of the then available funds credited to the account of that party.
13 Upon receipt of such application, the State Board shall pay over to that State chair an amount
14 not to exceed fifty percent (50%) of the then available funds credited to the account of that
15 party. Additionally and upon receipt of that application, the State Board shall direct the State
16 Treasurer to place fifty percent (50%) of those available funds in a separate interest bearing
17 account to be known as the "Presidential Election Year Candidates Fund of the (name of the
18 party) Party" to be disbursed in accord with the provisions of subsection (a) above. Any
19 remaining funds of the political party in the hands of the State Treasurer shall thereafter be held
20 by the State Treasurer until eligible for distribution by the State Board pursuant to this section.
21 Any interest earned on the funds deposited in such Presidential Election Year Campaign Fund
22 shall be credited thereto.

23 **"§ 163-278.42. Distribution of campaign funds; legitimate expenses permitted.**

24 (a) In a general election year in which a presidential election is held, every State
25 chairman of a political party shall disburse fifty percent (50%) of all funds received from the
26 North Carolina Political Parties Financing Fund to that political party. The remaining fifty
27 percent (50%) of such funds shall be allocated by the special committee established by
28 subsection (d) of this section and used for one or more of the purposes permitted by subsection
29 (e) of this section. Any candidate may elect to decline in whole or in part any funds that the
30 party chooses to distribute to the candidate.

31 (b) In a general election year in which there is not a presidential election, every State
32 chairman of a political party shall disburse fifty percent (50%) of all funds received from the
33 Political Parties Fund to that political party. The remaining fifty percent (50%) of such funds
34 shall be allocated by the special committee established in subsection (d) of this section and
35 used for one or more of the purposes permitted by subsection (e) of this section. Any candidate
36 may elect to decline in whole or in part any funds that the party chooses to distribute to the
37 candidate.

38 (c) In each year in which no general election is held, every State chairman of a political
39 party shall disburse all funds received from the Political Parties Fund to that political party.

40 (d) The allocation of the remaining fifty percent (50%) of the funds under subsections
41 (a) or (b) of this section shall be made by a committee composed of the State Chairman of that
42 political party, the Treasurer of that party, the Congressional District Chairmen of that party,
43 and a number of persons that shall not exceed the number of congressional districts in North
44 Carolina appointed by the State Chairman of that party, and the State Chairman shall serve as
45 Chairman of this committee. The allocation of funds shall be in the sole discretion of the
46 committee, but must be for a purpose permitted by subsection (e) of this section and if allocated
47 to a candidate, shall be disbursed by the State Chairman of that party only to the Treasurer of
48 that candidate or committee appointed under Article 22A of this Chapter or under the Federal
49 Election Campaign Act of 1971, Chapter 14 of Title 2, United States Code.

50 (e) A political party shall expend funds distributed from the Political Parties Fund or
51 from the "Presidential Election Year Candidates Fund" only for legitimate campaign expenses.

1 By way of illustration but not by way of limitation, the following are examples of legitimate
2 campaign expenses:

- 3 (1) Radio, television, newspaper, and billboard advertising for and on behalf of
4 a political party or candidate;
- 5 (2) Leaflets, fliers, buttons, and stickers;
- 6 (3) Campaign staff salaries, provided each staff member is listed by name and
7 by the amount paid as salary and the amount paid as campaign expense
8 reimbursement;
- 9 (4) Travel expenses, lodging and food for candidate and staff;
- 10 (4a) Expenses to ensure compliance with federal and State campaign finance and
11 reporting laws;
- 12 (4b) Contributions to or expenses on behalf of candidates of that political party;
- 13 (5) Party headquarters operations related to upcoming general elections,
14 including the purchase, maintenance and programming of computers to
15 provide lists of voters, party workers, officers, committee members and
16 participants in party functions, patterns of voting and other data for use in
17 general election campaigns and party activities and functions prior thereto,
18 the establishment and updating computer file systems of voter registration
19 lists, State, district, county and precinct officers and committee member lists,
20 party clubs or organization lists, the organizing of voter registration, fund
21 raising and get-out-the-vote programs at the county level when conducted by
22 State party personnel, and the preparation of reports required to be filed by
23 State and federal laws and systems needed to prepare the same and keep
24 records incident thereto.

25 (f) All moneys and funds previously designated by taxpayers being held by the North
26 Carolina Secretary of Revenue and being held by the North Carolina State Treasurer which
27 moneys and funds have not been disbursed or delivered to a political party as of June 16, 1978,
28 when disbursed shall be allocated by the State Chairman of the political party as follows:
29 sixty-two and one-half percent (62 1/2%) of such funds to the political party for legitimate
30 general election campaign expenditures; thirty-seven and one-half percent (37 1/2%) to the
31 eligible candidates as determined by the committee established under this Article.

32 (g) It shall be unlawful for any political party to use either directly or indirectly any part
33 of funds distributed from the Political Parties Fund or the Presidential Election Year Candidates
34 Fund of any political party for the support or assistance either directly or indirectly of any
35 candidate in a primary election, for support or assistance relating to the selection of a candidate
36 at a political convention or by the executive committee of a party, for the payment or
37 repayment of any debt or obligation of whatsoever kind or nature incurred by any person,
38 candidate or political committee in a primary election, the selection of a candidate at a political
39 convention or by the executive committee of a party, or for the support, promotion or
40 opposition of a national, State or local referendum, bond election or constitutional amendment.

41 **"§ 163-278.43. Annual report to State Board of Elections; suspension of disbursements;
42 willful violations a misdemeanor; adoption of rules; reporting by candidates
43 and political committees.**

44 (a) The State chairman of each political party receiving funds from the Political Parties
45 Fund or the Presidential Election Year Candidates Fund or both shall maintain a full and
46 complete record of the party's receipts and any and all subsequent expenditures and
47 disbursements thereof, and such shall be substantiated by any records, receipts, and information
48 that the Executive Director of the State Board of Elections shall require. Such record shall be
49 centrally located and shall be readily available at reasonable hours for public inspection.

50 (b) By December 31 of each year, the State chairman of each political party receiving
51 funds from the Political Parties Fund or a Presidential Election Year Candidates Fund in the 12

1 preceding months shall file with the State Board of Elections an itemized statement reporting
2 all receipts, expenditures and disbursements from the date of the last report and attached to
3 such report shall be the verification of such chairman that all such funds received were
4 expended in accordance with the provisions of this Article. If the Executive Secretary of the
5 State Board of Elections determines and finds as a fact that any such funds were not disbursed
6 or expended in accordance with this Article, ~~he~~ the Executive Secretary shall order such
7 political party to reimburse the amount improperly expended or disbursed to the General Fund
8 of the State and such political party shall not receive further disbursements from the Political
9 Parties Fund or a Presidential Election Year Candidates Fund until such reimbursement has
10 been accomplished in full. A copy of any such order shall be forwarded to the State Treasurer,
11 which shall constitute notice to ~~him~~ the State Treasurer to suspend further disbursements from
12 the campaign fund.

13 (c) Repealed by Session Laws 1985, c. 259.

14 (c1) The State Board shall review each application and certify that the political party is
15 eligible to receive the funds requested. The State Board shall establish rules for the
16 administration and enforcement of this Article.

17 (c2) The treasurer of any political committee or candidate receiving any funds from the
18 Political Parties Fund or a Presidential Election Year Candidates Fund through a political party
19 shall report such receipts as contributions according to the method and timetable set forth in
20 Article 22A of this Chapter. The treasurer shall report disbursements of such funds as
21 expenditures or loans according to the method and timetable set forth in Article 22A of this
22 Chapter. The reports shall be made to the proper board of elections according to Article 22A of
23 this Chapter. There is no requirement that a candidate or a political committee other than a
24 political party shall maintain funds from the Political Parties Fund or a Presidential Election
25 Year Candidates Fund in a separate account.

26 (d) Repealed by Session Laws 1985, c. 259.

27 **"§ 163-278.44. Crime; punishment.**

28 Any individual person, candidate, political committee, or treasurer who willfully and
29 intentionally violates any of the provisions of this Article, shall be guilty of a Class 2
30 misdemeanor.

31 **"§ 163-278.45. Definitions.**

32 (a) The terms "candidate," "expend," "individual," "person," "political committee," and
33 "treasurer" as used in this Article shall be as defined in G.S. 163-278.6.

34 (b) The term "political party" as used in this Article shall be any political party qualified
35 as provided in G.S. 163-96 which has maintained at least ten percent (10%) of the total
36 statewide voter registration in the two years prior to the most recent general election year."

37 **SECTION 2.** G.S. 105-159.1 is reenacted as it existed immediately before its
38 repeal, is recodified as G.S. 105-269.8, and reads as rewritten:

39 **"§ 105-269.8. Designation of tax by individual to political party.**

40 (a) ~~Every individual whose income tax liability for the taxable year is three dollars~~
41 ~~(\$3.00) or more may designate on his or her income tax return that three dollars (\$3.00) of the~~
42 ~~tax shall be credited.~~ Any taxpayer may elect on the taxpayer's tax return to contribute two
43 dollars (\$2.00) to the North Carolina Political Parties Financing Fund. ~~Fund for the use of the~~
44 ~~political party designated by the taxpayer.~~ In the case of a married couple filing a joint return
45 ~~whose income tax liability for the taxable year is six dollars (\$6.00) or more, each spouse may~~
46 ~~designate on the income tax return that three dollars (\$3.00) of the tax shall be credited to the~~
47 ~~North Carolina Political Parties Financing Fund for the use of the political party designated by~~
48 ~~the taxpayer.~~ return, each spouse may elect to contribute the amount authorized by this section.
49 Amounts credited to the Fund shall be allocated equally among the political parties. ~~parties~~
50 ~~according to the designation of the taxpayer. Where any taxpayer elects to designate but does~~
51 ~~not specify a particular political party, those funds shall be distributed among the political~~

1 parties on a pro rata basis according to their respective party voter registrations as determined
2 by the most recent certification of the State Board of Elections. As used in this section, the term
3 "political party" has the same meaning as defined in ~~G.S. 163-96~~ G.S. 163-278.45.

4 (b) Amounts designated under subsection (a) shall be credited to the North Carolina
5 Political Parties Financing Fund on a quarterly basis. Interest earned by the Fund shall be
6 credited to the Fund and shall be allocated among the political parties on the same basis as the
7 principal of the Fund. The State Board of Elections, which administers the Fund, shall make a
8 quarterly report to each State party chairman stating the amount of funds allocated to each party
9 for that quarter, the cumulative total of funds allocated to each party to date for the year, and an
10 estimate of the probable total amount to be collected and allocated to each party for that
11 calendar year.

12 (c) Repealed by Session Laws 1983, c. 481.

13 (d) Return. – ~~The first page of the income tax return must give an individual the~~
14 ~~opportunity to make the political contribution authorized in this section. The return or its~~
15 ~~accompanying explanatory instructions must readily indicate that a contribution neither~~
16 ~~increases nor decreases an individual's tax liability.~~ The Secretary shall provide appropriate
17 language and space on the income tax form in which to make the election. The taxpayer's
18 election becomes irrevocable upon filing the taxpayer's income tax return for the taxable year.
19 The return or its accompanying explanatory instructions must readily indicate that a
20 contribution increases the individual's tax liability and that it will be equally allocated among
21 the political parties.

22 (e) An income tax return preparer may not designate on a return that the taxpayer does
23 or does not desire to make the political contribution authorized in this section unless the
24 taxpayer or the taxpayer's spouse has consented to the designation."

25 **SECTION 3.** Section 2 of this act is effective for taxable years beginning on or
26 after January 1, 2016. The remainder of this act is effective when it becomes law.