

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 397
HOUSE BILL 787

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

The General Assembly of North Carolina enacts:

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

"CHAPTER 1063

"House Bill 1124

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

"The General Assembly of North Carolina enacts:

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

'Article 22C.

'Appropriations from the

North Carolina Candidates Financing Fund.

"§ 163-278.46. Establishment of Candidates Fund; administrative expenses; financing in case of insufficiency.–

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

"§ 163-278.47. Application; eligibility.–

(a) Application. Each candidate for ~~Council of State~~ Governor who seeks grants from the Candidates Fund shall file an application for the grants with the State Board on forms provided by the State Board. The candidate may file an application after being certified as a party's nominee for the office, but not after June 15.

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

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

- (1) Agree to abide by the expenditure limits provided in G.S. 163-278.48,
- (2) Raise qualifying matching contributions equal to five percent (5%) of the expenditure limit. "Qualifying matching contributions" are those

from political committees or individuals. They are limited to contributions raised after the candidate's certification as nominee, or raised before his certification but left unspent after certification.

- (3) Agree to submit to a postelection audit of the campaign account by the State Board.

"§ 163-278.48. Expenditure limits.–

(a) Limitation Formulas. Any candidate for ~~Council of State~~ Governor who requests grants from the Candidates Fund shall limit total expenditures after certification as party nominee as follows:

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

"§ 163-278.49. Qualified campaign expenditures.–

A candidate may use the money received from the Candidates Fund under this Article only to further that candidate's election to office through expenditures allowable under North Carolina law.

"§ 163-278.50. Distribution of funds.–

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

(b) Formula for Distribution. A candidate certified to receive money from the Candidates Fund shall be entitled to distribution of funds on a one-to-one basis for all qualifying matching contributions as defined in G.S. 163-278.47. No candidate, however, shall receive money from the Candidates Fund in excess of half the amount of that candidate's expenditure limit under G.S. 163-278.48.

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

- (1) The second Wednesday in August, and
- (2) The second Wednesday in September.

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

(d) Timetable for Distribution. Funds shall be distributed to candidates by September 1 before the general election, based on the August reports required in subsection (c) of this section. Further distribution shall be made within seven days after

the filing of each succeeding pre-election contribution report required by this section or by G.S. 163-278.9.

"§ 163-278.51. Withdrawal of application.–

(a) Regular Deadline for Withdrawal. A candidate, by written notice to the State Board before July 10, may withdraw application to receive money from the Candidates Fund.

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

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

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

- (1) Forego participation in the Candidates Fund; in that case, the new candidate will:
 - a. Not be eligible for any of the money the former candidate received or became entitled to before leaving the race, and
 - b. Not be subject to the expenditure limit, or
- (2) Assume the position of the former candidate with respect to the Candidates Fund; in that case, the new candidate will:
 - a. Be eligible for the unspent money the former candidate returned to the Candidates Fund, and for any money to which the former candidate had become entitled through qualifying matching contributions but had not received before leaving the race, and
 - b. Be eligible for any money from the Fund the new candidate may earn through qualifying matching contributions, and
 - c. Be subject to the remainder of the former candidate's expenditure limit, and
 - d. Be subject to all other requirements for participation in the Candidates Fund that the candidate's late entry into the race do not make inappropriate.

If the new candidate elects to forego the Candidates Fund, any other candidate in the race may withdraw his application within seven days after the new candidate has notified the State Board of a decision to forego the Candidates Fund, if the candidate seeking to withdraw is left as the only publicly funded candidate in the race. A

candidate who withdraws from participation in the Candidates Fund under the circumstances set out in this paragraph must return all money received from the Candidates Fund at the time of withdrawal.

"§ 163-278.52. Penalties; fines.–

In addition to any other penalties which may be applicable under this Chapter, any candidate who receives contributions from the Candidates Fund and who exceeds the applicable expenditure limit or falsely reports qualifying matching contributions and thereby receives contributions from the Candidates Fund to which the candidate was not entitled shall be fined an amount equal to the amount at issue plus ten percent (10%).

"§ 163-278.53. Criminal punishment.–

Any individual, person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a Class J felony.

"§ 163-278.54. Sixty-day post-election report to State Board; audit.–

(a) Maintenance of Records. The treasurer of each candidate shall keep a complete record of receipts from the Candidates Fund and of all subsequent expenditures and disbursements, substantiated by any records, receipts, and information that the State Director of Elections shall require.

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

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

"§ 163-278.55. Return of unspent money within 90 days of election.–

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

"§ 163-278.56. Duties of the State Board.–

The State Board shall establish rules for the administration and enforcement of this Article.

"§ 163-278.57. Definitions.–

The terms "candidate," "expend," "individual," "person," and "treasurer" as used in this Article shall be as defined in G.S. 163-278.6.'

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

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

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

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

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

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 25th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives