

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS35172-LB-53A (1/29)

Short Title: Regulate Legal Assistance Funds. (Public)

Sponsors: Senator Berger of Rockingham.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE LEGAL ASSISTANCE FUNDS COLLECTED BY OR ON
3 BEHALF OF AN ELECTED OFFICER.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Subchapter VIII of Chapter 163 of the General Statutes is
6 amended by adding a new Article to read:

7 "Article 22I.

8 "Legal Assistance Funds.

9 "**§ 163-278.120. Definitions.**

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

- 11 (1) Board. – The State Board of Elections.
- 12 (2) Contribution. – As defined in G.S. 163-278.6.
- 13 (3) Elected official. – Any individual holding any of the following State
14 offices:
- 15 a. Governor or Council of State.
- 16 b. Justice or Judge of the General Court of Justice.
- 17 c. District Attorney.
- 18 d. Member of the Senate or House of Representatives.
- 19 (4) Legal assistance 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; for the
22 purpose of paying the expenses of an elected official connected with
23 that official's public service and not paid by or reported as a campaign
24 expense.
- 25 (5) Person. – An individual.

1 (6) Treasurer. – An individual appointed by an elected officer or other
2 person or group of persons collecting money for a legal assistance
3 fund.

4 **"§ 163-278.121. Creation of legal assistance funds.**

5 (a) An elected official, or another person or group of persons with the express
6 consent of the elected official on the elected official's behalf, may create a legal
7 assistance fund.

8 (b) If a legal assistance fund is created, the legal assistance fund shall comply
9 with all provisions of this Article.

10 (c) A violation of this Article shall be punishable as a Class 2 misdemeanor.

11 (d) The controlling and liable person of a fund created under this Article is the
12 elected official for whom the fund is established.

13 **"§ 163-278.122. Appointment of treasurer.**

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

16 (b) Each appointed treasurer shall file with the Board at the time required by
17 G.S. 163-278.9(a)(1), a statement of organization that includes the following:

18 (1) The name, address, and purpose of the legal assistance fund.

19 (2) The names, addresses, and relationships of affiliated or connected
20 elected officials, candidates, political committees, referendum
21 committees, political parties, or similar organizations.

22 (3) The name, address, and position with the legal assistance fund of the
23 custodian of books and accounts.

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

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

42 (6) Any other information which might be requested by the Board that
43 deals with the legal assistance fund organization.

1 (c) Any change in information previously submitted in a statement of
2 organization shall be reported to the Board within 10 calendar days following the
3 change.

4 (d) A legal assistance fund may remove its treasurer. In case of the death,
5 resignation, or removal of its treasurer before compliance with all obligations of a
6 treasurer under this Article, such legal assistance fund shall appoint a successor within
7 10 calendar days of the vacancy of such office, and certify the name and address of the
8 successor in the manner provided in the case of an original appointment.

9 (e) Every treasurer of a legal assistance fund shall receive training from the
10 Board as to the duties of the office.

11 **"§ 163-278.123. Detailed accounts to be kept by political treasurers.**

12 (a) The treasurer of each legal assistance fund shall keep detailed accounts,
13 current within not more than seven days after the date of receiving a contribution or
14 making an expenditure, of all contributions received and all expenditures made by or on
15 behalf of the legal assistance fund.

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

20 (c) A treasurer shall not be required to report the name of any individual who is a
21 resident of this State who makes a total contribution of one hundred dollars (\$100.00) or
22 less but shall instead report the fact that the treasurer has received a total contribution of
23 one hundred dollars (\$100.00) or less, the amount of the contribution, and the date of
24 receipt. If a treasurer receives contributions of one hundred dollars (\$100.00) or less,
25 each at a single event, the treasurer may account for and report the total amount
26 received at that event, the date and place of the event, the nature of the event, and the
27 approximate number of people at the event.

28 (d) With respect to the proceeds of sale of services, campaign literature and
29 materials, wearing apparel, tickets or admission to campaign events such as rallies or
30 dinners, and the proceeds of sale of any legal assistance fund related services or goods,
31 if the price or value received for any single service or goods exceeds fifty dollars
32 (\$50.00), the treasurer shall account for and report the name of the individual paying for
33 such services or goods, the amount received, and the date of receipt. If the price or value
34 received for any single service or item of goods does not exceed fifty dollars (\$50.00),
35 the treasurer may report only those services or goods rendered or sold at a value that
36 does not exceed fifty dollars (\$50.00), the nature of the services or goods, the amount
37 received in the aggregate for the services or goods, and the date of the receipt.

38 (e) All expenditures for media expenses shall be made by a verifiable form of
39 payment. The Board shall prescribe methods to ensure an audit trail for every
40 expenditure so that the identity of each payee can be determined. All media
41 expenditures in any amount shall be accounted for and reported individually and
42 separately.

43 (f) All expenditures for nonmedia expenses (except postage) of more than fifty
44 dollars (\$50.00) shall be made by a verifiable form of payment. The Board shall

1 prescribe methods to ensure an audit trail for every expenditure so that the identity of
2 each payee can be determined. All expenditures for nonmedia expenses of fifty dollars
3 (\$50.00) or less may be made by check or by cash payment. All nonmedia expenditures
4 of more than fifty dollars (\$50.00) shall be accounted for and reported individually and
5 separately, but expenditures of fifty dollars (\$50.00) or less may be accounted for and
6 reported in an aggregated amount, but in that case the treasurer shall account for and
7 report that the treasurer made expenditures of fifty dollars (\$50.00) or less each, the
8 amounts, dates, and the purposes for which made. In the case of a nonmedia expenditure
9 required to be accounted for individually and separately by this subsection, if the
10 expenditure was to an individual, the report shall list the name and address of the
11 individual.

12 (g) All proceeds from loans shall be recorded separately with a detailed analysis
13 reflecting the amount of the loan, the source, the period, the rate of interest, and the
14 security pledged, if any, and all makers and endorsers.

15 **"§ 163-278.124. Statements filed with Board.**

16 (a) The treasurer of each legal assistance fund shall file with the Board under
17 certification of the treasurer as true and correct to the best of the knowledge of that
18 officer the following reports:

19 (1) Organizational Report. – The appointment of the treasurer as required
20 by G.S. 163-278.102(a), the statement of organization required by
21 G.S. 163-278.102(b), and a report of all contributions and expenditures
22 not previously reported.

23 (2) Quarterly Reports. – The treasurer shall file a report by mailing or
24 otherwise delivering it to the Board no later than seven working days
25 after the end of each calendar quarter covering the prior calendar
26 quarter.

27 (b) Any report or attachment filed under this section must be certified.

28 (c) Treasurers shall electronically file each report required by this section that
29 shows a cumulative total for the election cycle in excess of five thousand dollars
30 (\$5,000) in contributions, in expenditures, or in loans, according to rules adopted by the
31 State Board. The Board shall provide the software necessary to file an electronic report
32 to a treasurer required to file an electronic report at no cost to the treasurer.

33 **"§ 163-278.125. Permitted uses of legal assistance funds.**

34 A legal assistance fund may be used for reasonable expenses actually incurred by the
35 elected official in relation to a legal action or potential legal action brought by or against
36 the elected official. Upon completion of the legal action or potential legal action, the
37 remaining monies in the legal assistance fund shall be distributed to the Crime Victims
38 Compensation Fund."

39 **SECTION 2.** This act becomes effective October 1, 2007.