

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 20
Finance Committee Substitute Adopted 8/4/09
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S20-PCS55638-ST-101

Short Title: Public Financing Changes.

(Public)

Sponsors:

Referred to:

February 2, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PILOT PROGRAM FOR PUBLIC FINANCING OF TWO
3 MUNICIPAL ELECTION CAMPAIGNS AND TO EXPAND THE VOLUNTARY
4 VOTER-OWNED ELECTIONS PROGRAM BY ADDING THE OFFICE OF STATE
5 TREASURER TO THAT PROGRAM.

6 The General Assembly of North Carolina enacts:

7 SECTION 1.(a) G.S. 160A-499.1, as enacted by Section 2 of S. L. 2007-222, reads
8 as rewritten:

9 "§ 160A-499.1. Uniform, nondiscriminatory program of public financing of election
10 campaigns.

11 (a) A governing body of a city may appropriate funds for a public campaign financing
12 program as defined in ~~G.S. 163-278.6(17a)~~ subsection (c) of this section for city office in that
13 city's jurisdiction if the city has held at least one public hearing on the program before adopting
14 it and the program is approved by the State Board of Elections. The State Board of Elections
15 shall develop guidelines for the basic components needed in a program to meet the criteria set
16 forth in ~~G.S. 163-278.6(17a)~~ subsection (c) of this section and shall approve a city's program
17 that meets the criteria. The guidelines shall require that participating candidates shall file all
18 disclosure reports with the State Board of Elections and that the State Board of Elections shall
19 certify and authorize the issuance of public funds to eligible candidates participating in the
20 program. Any city exercising authority under this section shall provide full notice to the county
21 board of elections in any county in which it has territory.

22 (b) The governing body of a city appropriating funds as provided by this section shall
23 prepare a report no later than six months after the second election in which it appropriates funds
24 under this section that analyzes its experience in implementing a public campaign financing
25 program by that date, including percent of candidates participating in a program, sources and
26 amounts of funding, litigation involving a program, administrative issues, and
27 recommendations for changes in this statute. The report shall be presented by that date to the
28 ~~Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of~~
29 ~~the Legislative Services Office, and to the committees in the House of Representatives and~~
30 ~~Senate to which election related bills are primarily referred.~~ State Board of Elections.



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"The Voter-Owned Elections Act.

"§ 163-278.95. Purpose and establishment of Voter-Owned Elections Act.

The purpose of this Article is to ensure the vitality and fairness of democratic elections for elected offices that implement and provide oversight on the regulation or investigation of individuals, businesses, or government in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for those public office-offices. It is also the purpose of this Article to protect the constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent in North Carolina to influence the outcome of elections. It is essential to the public interest that the potential for corruption or the appearance of corruption within regulatory or investigatory offices overseen by elected officials is minimized and that the equal and meaningful participation of all citizens in the democratic process is ensured. Accordingly, this Article establishes the North Carolina Voter-Owned Elections Fund as an alternative source of campaign financing for candidates who obtain a sufficient number of qualifying contributions from registered voters and who voluntarily accept strict fund-raising and spending limits. This Article is available to candidates for the Council of State offices of Auditor, Superintendent of Public Instruction, and Commissioner of Insurance in elections to be held in 2008 and ~~thereafter~~ thereafter; to candidates for the Council of State office of Treasurer in elections to be held in 2012 and thereafter.

"§ 163-278.96. Definitions.

The following definitions apply in this Article:

- (1) Board. – The State Board of Elections.
- (2) Campaign-related expenditure. – An expenditure that benefits the candidate's current campaign in accordance with guidelines established by the Board.
- (3) Candidate. – An individual who becomes a candidate as described in G.S. 163-278.6(4). The term includes a "candidate campaign committee" as defined in G.S. 163-278.38Z(3).
- (4) Certified candidate. – A candidate for office who chooses to receive campaign funds from the Fund and who is certified under G.S. 163-278.98(c). A write-in candidate authorized under G.S. 163-123 is not eligible to become a certified candidate.
- (5) Contested primary and contested general election. – An election in which there are more candidates than the number to be elected.
- (6) Contribution. – Defined in G.S. 163-278.6. A distribution from the Fund pursuant to this Article is not a "contribution" and is not subject to the limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or G.S. 163-278.19. Instead of being subject to G.S. 163-278.16B, distributions are subject to the guidelines issued by the Board pursuant to G.S. 163-278.98(e)(5).
- (6a) Electioneering communication. – As defined in G.S. 163-278.80 and G.S. 163-278.90, except that it is made during the period beginning 30 days before absentee ballots become available for a primary and ending on primary election day and during the period 60 days before absentee ballots become available for a general election and ending on general election day.
- (7) Expenditure. – Defined in G.S. 163-278.6.
- (8) Fund. – The North Carolina Voter-Owned Elections Fund established in G.S. 163-278.97.
- (9) Independent expenditure. – Defined in G.S. 163-278.6.
- (10) Maximum qualifying contributions. – If the candidate has ~~an uncontested no~~ primary, an amount equal to 100one hundred dollars (\$100.00) times the filing fee ~~minimum number of registered voters required to make a~~

1 qualifying contribution under G.S. 163-278.98(b) for the office sought. If the
2 candidate has a contested primary, ~~200~~two hundred dollars (\$200.00) times
3 the ~~filing fee~~ minimum number of registered voters required to make a
4 qualifying contribution under G.S. 163-278.98(b) for the office sought.

- 5 (11) Nonparticipating candidate. – A candidate for office who is not seeking to be
6 certified under G.S. 163-278.98(c).
- 7 (12) Office. – The Council of State offices of Auditor, Superintendent of Public
8 Instruction, Treasurer, and Commissioner of Insurance.
- 9 (13) Participating candidate. – A candidate for office who has filed a declaration
10 of intent to participate under G.S. 163-278.98(a).
- 11 (14) Political committee. – Defined in G.S. 163-278.6.
- 12 (15) Qualifying contribution. – A contribution of not less than ten dollars
13 (\$10.00) and not more than two hundred dollars (\$200.00) in the form of ~~a~~
14 ~~check or money order~~ prescribed for noncash monetary contributions in
15 G.S. 163-278.14(b) to the candidate that meets both of the following
16 conditions:
- 17 a. Made by ~~any~~ an individual who is a registered voter in this
18 State. State at the time of the submittal of the report specified in
19 G.S. 163-278.98(d).
- 20 b. Made only during the qualifying period and obtained with the
21 approval of the candidate or candidate's committee.
- 22 (16) Qualifying period. – The period beginning September 1 in the year before
23 the election and ending on the day of the primary.
- 24 (17) Trigger for matching funds. – The dollar amount at which matching funds
25 are released under G.S. 163-278.99B for certified candidates. In the case of a
26 contested primary, the trigger equals the maximum qualifying contributions
27 for the candidate. In the case of a contested general election, the trigger
28 equals the base level of funding available under G.S. 163-278.99(b)(4).

29 **"§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.**

30 (a) Establishment of Fund. – The North Carolina Voter-Owned Elections Fund is
31 established to finance the election campaigns of certified candidates for office and to pay
32 administrative and enforcement costs of the Board related to this Article. The Fund is a special,
33 dedicated, nonlapsing, nonreverting fund. Any interest generated by the Fund is credited to the
34 Fund. The Board shall administer the Fund.

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

- 37 (1) Unspent Fund revenues distributed for an election that remain unspent or
38 uncommitted at the time the recipient is no longer a certified candidate in the
39 election.
- 40 (2) Money ordered returned to the Fund in accordance with G.S. 163-278.99D.
- 41 (3) Money paid to the Fund equal to excess contributions as provided in
42 G.S. 163-278.98(e)(1).
- 43 (4) Voluntary donations made directly to the Fund.
- 44 (5) Appropriations from the General Fund.

45 (c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every
46 four years thereafter, the Board, in conjunction with the Advisory Council established under
47 G.S. 163-278.68(b), shall prepare and provide to the Joint Legislative Commission on
48 Governmental Operations of the General Assembly a report documenting, evaluating, and
49 making recommendations relating to the administration, implementation, and enforcement of
50 this Article. In its report, the Board shall set out the funds received to date and the expected
51 needs of the Fund during the next election cycle and make recommendations about the

1 feasibility of expanding its provisions to include other candidates for State office based on the
2 experience of this Article and the experience of similar programs in North Carolina and other
3 states. The Board shall also evaluate and make recommendations regarding how to address
4 activities that could undermine the purpose of this Article, including spending that appears to
5 target candidates but is not reached by regulation.

6 **"§ 163-278.98. Requirements for participation.**

7 (a) Declaration of Intent to Participate. – Any individual choosing to receive campaign
8 funds from the Fund shall first file with the Board a declaration of intent to participate in the
9 program established by this Article as a candidate for a stated office. The declaration of intent
10 shall be filed before or during the qualifying period and before collecting any qualifying
11 contributions. In the declaration, the candidate shall swear or affirm that only one political
12 committee, identified with its treasurer, shall handle all contributions, campaign-related
13 expenditures, and obligations for the participating candidate and that the candidate will comply
14 with the contribution and expenditure limits set forth in subsection (e) of this section and all
15 other requirements set forth in this Article or adopted by the Board. Failure to comply is a
16 violation of this Article.

17 (b) Demonstration of Support of Candidacy. – In order to be certified, participating
18 candidates must obtain qualifying contributions from at least ~~750-900~~ registered voters in this
19 ~~State.~~ State, and from an additional 100 registered voters in this State for each one hundred
20 thousand dollars (\$100,000) that the grant amount for the office under G.S. 163-278.99(b)(4)
21 exceeds three hundred thousand dollars (\$300,000). Multiple contributions from the same
22 individual to the same candidate shall not count as more than one qualifying contribution.

23 The qualifying contributions shall be equal to at least ~~25~~ twenty dollars (\$20.00) times the
24 ~~amount of the filing fee for the office.~~ minimum number of qualifying contributions but shall
25 not exceed the maximum qualifying contributions defined in G.S. 163-278.96(10). No
26 payment, gift, or anything of value ~~value, or the opportunity to win anything of value~~ shall be
27 given in exchange for a qualifying contribution.

28 (c) Certification of Candidates. – Upon receipt of a submittal of the record of qualifying
29 contributions by a participating candidate, the Board shall determine whether or not the
30 candidate has:

- 31 (1) Filed a completed declaration of intent to participate in this Article.
- 32 (2) Submitted a report itemizing the appropriate number of qualifying
33 contributions received from registered voters, which the Board shall verify
34 through a random sample or other means it adopts. The report shall include
35 the county of residence of each registered voter listed.
- 36 (3) Filed a notice of candidacy with the State Board of Elections as a candidate
37 for the office.
- 38 (4) Otherwise met the requirements for participation in this Article.

39 The Board shall certify candidates complying with the requirements of this section as soon
40 as possible and no later than five business days after receipt of a satisfactory record of
41 qualifying contributions.

42 (d) Final Report for Qualifying Contributions. – No later than five business days after
43 the end of the qualifying period, all participating candidates shall submit a report to the Board
44 of all previously unreported qualifying contributions, in accordance with procedures developed
45 by the Board. Within seven business days after submittal of the final report, the Board shall
46 determine, through a random audit or other means it adopts, whether the contributions abide by
47 the definition of qualifying contributions, whether they must be returned to the donor, and
48 whether they exceed the maximum amount of qualifying contributions.

49 (e) Restrictions on Contributions and Expenditures for Participating and Certified
50 Candidates. – The following restrictions shall apply to contributions and expenditures with
51 respect to participating and certified candidates:

- 1 (1) Beginning August 1 of the year before the election and before filing a
2 declaration of intent, a candidate shall limit campaign-related expenditures
3 to twenty thousand dollars (\$20,000) and shall not accept more than twenty
4 thousand dollars (\$20,000) from sources and in amounts permitted by
5 Article 22A of this Chapter. A candidate who exceeds either of these limits
6 shall be ineligible to file a declaration of intent or receive funds from the
7 Fund. However, the acceptance of contributions in excess of that twenty
8 thousand dollar (\$20,000) limit does not render the candidate ineligible if the
9 candidate pays to the Board an amount equal to the contributions accepted
10 by the candidate in excess of that limit. The Board shall deposit all such
11 payments into the Fund.
- 12 (2) From the filing of a declaration of intent through the end of the qualifying
13 period, a candidate may accept only qualifying contributions, contributions
14 under ten dollars (\$10.00) from North Carolina voters, in-kind party
15 contributions as permitted in subdivision (4) of this subsection, and personal
16 and family contributions permitted under subdivision (4a) of this subsection.
17 The total contributions the candidate may accept during this period shall not
18 exceed the maximum qualifying contributions for that candidate. Except for
19 personal and family contributions permitted under subdivision (4a) of this
20 subsection, multiple contributions from the same contributor to the same
21 candidate shall not exceed two hundred dollars (\$200.00). In addition to
22 these contributions, the candidate may only expend during this period the
23 remaining money raised pursuant to subdivision (1) of this subsection and
24 possible matching funds received pursuant to G.S. 163-278.99B. If the
25 candidate has any remaining money that was raised as contributions before
26 August 1 of the year before the election, the candidate may not expend that
27 money after filing the declaration of intent, except for purposes permitted
28 under subdivision (2), (3), (6), (7), or (8) of G.S. 163-278.16B(a).
- 29 (3) After the qualifying period and through the date of the general election, the
30 candidate shall cease campaign-related fund-raising activities and shall
31 expend only the funds the candidate receives from the Fund pursuant to
32 G.S. 163-278.99(b) plus any funds remaining from the qualifying period and
33 possible matching funds.
- 34 (4) In addition to the amounts above, a candidate may accept in-kind
35 contributions from political party executive committees, up to an aggregate
36 value of thirty thousand dollars (\$30,000) for the election cycle.
- 37 (4a) During the qualifying period, the candidate may contribute up to one
38 thousand dollars (\$1,000) of that candidate's own money to the campaign.
39 Debt incurred by the candidate for a campaign expenditure shall count
40 toward that limit. The candidate may accept in contributions one thousand
41 dollars (\$1,000) from each member of that candidate's family consisting of
42 spouse, parent, child, brother, and sister. Up to two hundred dollars
43 (\$200.00) of a contribution from the candidate's family member may be
44 treated as a qualifying contribution if it meets the requirements of
45 G.S. 163-278.96(15)a. and b.
- 46 (5) A candidate and the candidate's committee shall limit the use of all revenues
47 permitted by this subsection to expenditures for campaign-related purposes
48 only. The Board shall publish guidelines outlining permissible
49 campaign-related expenditures.
- 50 (6) Except as provided in subdivision (1) of this subsection, any contribution
51 received by a participating or certified candidate that falls outside that

1 permitted by this subsection shall be returned to the donor as soon as
2 practicable. Contributions intentionally made, solicited, or accepted in
3 violation of this Article are subject to civil penalties as specified in
4 G.S. 163-278.99D. The funds involved shall be forfeited to the Civil Penalty
5 and Forfeiture Fund.

6 (7) A candidate shall return to the Fund any amount distributed for an election
7 that is unspent and uncommitted at the date of the election or at the time the
8 individual ceases to be a certified candidate, whichever occurs first. For
9 accounting purposes, all qualifying, personal, and family contributions shall
10 be considered spent before revenue from the Fund is spent or committed.

11 (f) Revocation. – A candidate may revoke, in writing to the Board, a decision to
12 participate in the Fund at any time. After a revocation, that candidate may accept and expend
13 outside the limits of this Article without violating this Article. Within 10 days after revocation,
14 a candidate shall return to the Board all money received from the Fund.

15 **"§ 163-278.99. Distribution from the Fund.**

16 (a) Timing of Fund Distribution. – The Board shall distribute to a certified candidate
17 revenue from the Fund in an amount determined under subdivision (b)(4) of this section as
18 follows:

- 19 (1) One-third of the amount within five business days after the certified
20 candidate's name is approved to appear on the ballot in a contested general
21 election, but no earlier than five business days after the primary.
22 (2) The remainder of the amount on August 1 before the general election.

23 (b) Amount of Fund Distribution. – ~~By August 1, 2011, and no less frequently than~~
24 ~~every four years thereafter, No later than August 1 of the second year before an election, the~~
25 Board shall determine the amount of funds, ~~rounded to the nearest one hundred dollars~~
26 ~~(\$100.00), funds~~ to be distributed to certified candidates as follows:

- 27 (1) ~~Uncontested primaries. No primary.~~ – No funds shall be distributed.
28 (2) Contested primaries. – No funds shall be distributed except as provided in
29 G.S. 163-278.99B.
30 (3) Uncontested general elections. – No funds shall be distributed.
31 (4) Contested general elections. – The amount of funds to be distributed to a
32 candidate is the average amount of campaign-related expenditures made in
33 the general election by all candidates who won the immediately preceding
34 three general elections for that office, rounded to the nearest one thousand
35 dollars (\$1,000), but not less than three hundred thousand dollars
36 (\$300,000). For purposes of this subsection, "campaign-related
37 expenditures" does not include loan repayments and contributions to a
38 candidate, political committee, or political party. For purposes of this
39 subsection, expenditures are made in the general election if they are required
40 to be reported on the third and fourth quarterly reports.

41 (c) Method of Fund Distribution. – The Board, in consultation with the State Treasurer
42 and the State Controller, shall develop a rapid, reliable method of conveying funds to certified
43 candidates. In all cases, the Board shall distribute funds to certified candidates in a manner that
44 is expeditious, ensures accountability, and safeguards the integrity of the Fund. If the money in
45 the Fund is insufficient to fully fund all certified candidates, then the available money shall be
46 distributed proportionally, according to each candidate's eligible funding, and the candidate
47 may raise additional money in the same manner as a nonparticipating candidate for the same
48 office up to the unfunded amount of the candidate's eligible funding.

49 **"§ 163-278.99A. Reporting requirements.**

50 (a) Reporting by Noncertified Candidates and Other Entities. – Any nonparticipating
51 candidate with a certified opponent shall report total contributions received to the Board by

1 facsimile machine or electronically within 24 hours after the total amount of contributions
2 received exceeds eighty percent (80%) of the trigger for matching funds as defined in
3 G.S. 163-278.96(17). Any entity making independent expenditures in support of or in
4 opposition to a certified candidate, or in support of a candidate opposing a certified candidate,
5 or paying for electioneering communications referring to one of those candidates, shall report
6 the total funds received, spent, or obligated for those expenditures or payments to the Board by
7 facsimile machine or electronically within 24 hours after the total amount of expenditures or
8 obligations made, or funds raised or borrowed, for the purpose of making the independent
9 expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After
10 the initial 24-hour filing, the nonparticipating candidate or other reporting entity shall comply
11 with an expedited reporting schedule. The schedule and forms for reports required by this
12 subsection shall be supplied by the Board.

13 (b) Reporting by Participating and Certified Candidates. – Notwithstanding other
14 provisions of law, participating and certified candidates shall report any money received and all
15 campaign expenditures, obligations, and related activities to the Board according to procedures
16 developed by the Board. Upon the filing of a final report for any losing primary election,
17 special election, or general election, each candidate who has revenues from the Fund remaining
18 unspent shall return those revenues to the Board. In developing these procedures, the Board
19 shall utilize existing campaign reporting procedures wherever practicable.

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

23 **"§ 163-278.99B. Matching funds.**

24 (a) When Matching Funds Become Available. – When any report or group of reports
25 shows that "funds in opposition to a certified candidate or in support of an opponent to that
26 candidate" as described in this section exceed the trigger for matching funds as defined in
27 G.S. 163-278.96(17), the Board shall issue immediately to that certified candidate an additional
28 amount equal to the reported excess within the limits set forth in this section. "Funds in
29 opposition to a certified candidate or in support of an opponent to that candidate" shall be equal
30 to the sum of subdivisions (1) and (2) as follows:

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 nonparticipating
34 opponent of a certified candidate. Where a certified candidate has
35 more than one nonparticipating opponent, the measure shall be taken
36 from the nonparticipating candidate showing the highest relevant
37 dollar amount.
- 38 b. The funds distributed in accordance with G.S. 163-278.99(b) to a
39 certified opponent of the certified candidate.

40 (2) The aggregate total of all expenditures and payments reported in accordance
41 with G.S. 163-278.99A(a) of entities making independent expenditures or
42 electioneering communications in opposition to the certified candidate or in
43 support of any opponent of that certified candidate.

44 (b) Limit on Matching Funds ~~in Contested Primary. Before Date of Primary.~~ – Total
45 matching funds to a certified candidate ~~in a contested~~ before the date of the primary shall be
46 limited to an amount equal to the maximum qualifying contributions for a candidate with a
47 contested primary. Matching funds are available to a certified candidate with an opponent in
48 the primary or to a certified candidate who is clearly referred to in expenditures reportable
49 under G.S. 163-278.99A made in opposition to that candidate.

1 (c) Limit on Matching Funds in Contested General Election. – Total matching funds to
2 a certified candidate in a contested general election shall be limited to an amount equal to two
3 times the amount described in G.S. 163-278.99(b)(4).

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

21 (e) Proportional Measuring of Multicandidate Communications. – In calculating the
22 amount of matching funds a certified candidate is eligible to receive under this section, the
23 Board shall include the proportion of expenditures, obligations, or payments for multicandidate
24 communications that pertains to the candidate.

25 (f) No Matching Funds for Communications Supporting or Opposing All Candidates. –
26 No matching funds are available under this section as a result of an expenditure that supports
27 all candidates for the same office or opposes all candidates for the same office. No matching
28 funds are available under this section as a result of an electioneering communication that the
29 Board ascertains is susceptible of no reasonable interpretation other than as an appeal to vote
30 for all candidates for the same office or to vote against all candidates for the same office.

31 **"§ 163-278.99C. Unaffiliated and new-party candidates.**

32 Unaffiliated candidates certified pursuant to G.S. 163-122 and new-party candidates
33 certified pursuant to G.S. 163-98 shall be eligible for revenues from the Fund in the same
34 amounts and at the same time as specified in G.S. 163-278.99. For unaffiliated candidates and
35 new-party candidates not certified to appear on the ballot by noon on the deadline set in
36 G.S. 163-106(c) for candidate filing in the election year, the deadline for seeking certification
37 to receive revenue from the Fund is noon on the first business day of July of the election year.

38 **"§ 163-278.99D. Enforcement by the Board; civil penalty.**

39 (a) Enforcement by the Board. – The Board, with the advice of the Advisory Council
40 for the Public Campaign Fund established by G.S. 163-278.68, shall administer the provisions
41 of this Article.

42 (b) Appeals. – The initial decision on an issue concerning qualification, certification, or
43 distribution of funds under this Article shall be made by the Executive Director of the Board.
44 The procedure for challenging that decision is as follows:

45 (1) An individual or entity aggrieved by a decision by the Executive Director of
46 the Board may appeal to the full Board within three business days of the
47 decision. The appeal shall be in writing and shall set forth the reasons for the
48 appeal.

49 (2) Within five business days after an appeal is properly made, and after due
50 notice is given to the parties, the Board shall hold a hearing. The appellant
51 has the burden of providing clear and convincing evidence to demonstrate

1 that the decision of the Executive Director was improper. The Board shall
2 rule on the appeal within three business days after the completion of the
3 hearing.

4 (c) Board to Adopt Procedures and Issue Opinions. – The Board shall adopt procedures
5 and issue opinions to ensure effective administration of this Article. Such procedures and
6 opinions shall include, but not be limited to, procedures for obtaining qualifying contributions,
7 certification of candidates, addressing circumstances involving special elections, vacancies,
8 recounts, withdrawals, or replacements, collection of revenues for the Fund, distribution of
9 Fund revenue to certified candidates, return of unspent Fund disbursements, and compliance
10 with this Article. The Board shall adopt procedures for the distribution of matching money that
11 further the purpose and avoid the subversion of G.S. 163-278.99B. For races involving special
12 elections, recounts, vacancies, withdrawals, or replacement candidates, the Board shall
13 establish procedures for qualification, certification, disbursement of Fund revenues, and return
14 of unspent Fund revenues. Where applicable, the Board shall adopt the provisions of
15 G.S. 163-278.64A. The Board shall fulfill each of these duties in consultation with the
16 Advisory Council on the Public Campaign Fund.

17 (d) Report to the Public. – The Advisory Council for the Public Campaign Fund shall
18 issue a report by March 1, 2013, and every two years thereafter that evaluates and makes
19 recommendations about the implementation of this Article and the feasibility of expanding its
20 provisions to include other candidates for State office based on the experience of the Fund and
21 the experience of similar programs in other states. The Advisory Council shall also evaluate
22 and make recommendations regarding how to address activities that could undermine the
23 purpose of this Article, including spending that appears to target candidates receiving money
24 from the Fund but that does not meet the definition of "independent expenditures."

25 (e) Civil Penalty. – In addition to any other penalties that may be applicable, any
26 individual, political committee, or other entity that violates any provision of this Article is
27 subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation or three times the
28 amount of any financial transactions involved in the violation, whichever is greater. In addition
29 to any fine, for good cause shown, a candidate found in violation of this Article may be
30 required to return to the Fund all amounts distributed to the candidate from the Fund. If the
31 Board makes a determination that a violation of this Article has occurred, the Board shall
32 calculate and assess the amount of the civil penalty and shall notify the entity that is assessed
33 the civil penalty of the amount that has been assessed. The Board shall then proceed in the
34 manner prescribed in G.S. 163-278.34. In determining whether or not a candidate is in violation
35 of this Article, the Board may consider as a mitigating factor any circumstances out of the
36 candidate's control.

37 **"§ 163-278.99E. Voter education.**

38 (a) Voter Guide. – The Board shall publish a Voter Guide that explains the functions of
39 ~~office as defined in G.S. 163-278.96(12) and the laws concerning the election~~ all 10 offices of
40 the Council of State, the purpose and function of the Fund, and the laws concerning voter
41 registration. The Board shall distribute the Guide to as many voting-age individuals in the State
42 as practical, through a mailing to all residences or other means it deems effective. The State
43 Board of Elections shall maintain a list of the addresses from which mailed Voter Guides are
44 returned as undeliverable. That list shall be available for public inspection. The distribution
45 shall occur no more than 28 days nor fewer than seven days before the one-stop voting period
46 provided in G.S. 163-227.2 for the primary and no more than 28 days nor fewer than seven
47 days before the one-stop voting period provided in G.S. 163-227.2 for the general election.

48 (b) Candidate Information. – The Voter Guide shall include information concerning all
49 candidates for ~~office as defined in G.S. 163-278.96(12),~~ all 10 of the offices of the Council of
50 State, as provided by those candidates according to a format provided to the candidates by the

1 Board. The Board shall request information for the Guide from each candidate according to the
2 following format:

3 (1) Place of residence.

4 (2) Education.

5 (3) Occupation.

6 (4) Employer.

7 (5) Previous elective offices held.

8 (6) ~~Endorsements, limited to 50 words.~~ Endorsements. – Concerning
9 endorsements, the Board shall send to the candidates instructions as follows:
10 "In order to have an endorsement published, you must provide written
11 confirmation to the Board from the endorsing person or organization that
12 you received that person's or organization's endorsement."

13 (7) ~~Candidate statement, limited to 150 words.~~ Statement. – Concerning that
14 statement, the Board shall send to the candidates instructions as follows:
15 "Your statement may include information such as your qualifications, your
16 endorsements, why you would make a good elected official, what
17 distinguishes you from your opponent(s), and any other information relevant
18 to your candidacy. The State Board of Elections will reject any portion of
19 any statement which it determines contains obscene, profane, or defamatory
20 language. The candidate shall have three days to resubmit the candidate
21 statement if the Board rejects a portion of the statement."

22 The entire entry for a candidate shall be limited to 250 words.

23 (c) Disclaimer. – The Voter Guide shall contain the following statement: "Statements
24 by candidates do not express or reflect the opinions of the State Board of Elections."

25 (d) Relationship to the Judicial Voter Guide. – ~~The Board may~~ Whenever possible, the
26 Board shall publish the Voter Guide in conjunction with the Judicial Voter Guide described in
27 G.S. 163-278.69."

28 **SECTION 2.(b)** Notwithstanding the provisions of G.S. 163-278.97, for the period
29 January 1, 2011, through December 31, 2012, two dollars and fifty cents (\$2.50) of each
30 three-dollar (\$3.00) allocation under G.S. 105-159.2 shall be transferred on a monthly basis to
31 the North Carolina Voter-Owned Election Fund for distribution under Article 22J of Chapter
32 163 of the General Statutes in the 2012 election.

33 **SECTION 2.(c)** The State Board of Elections shall make the determination of
34 available funds required by G.S. 163-278.99(b), as enacted by this section, on October 1, 2010,
35 or within 30 days of receiving preclearance under Section 5 of the Voting Rights Act of 1965,
36 whichever date occurs first.

37 **SECTION 3.** This act is effective when it becomes law.