

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 966
PROPOSED COMMITTEE SUBSTITUTE S966-PCS55391-ST-32

Short Title: Expanded Voter-Owned Elections.

(Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE VOTER-OWNED ELECTIONS ACT TO COVER
ADDITIONAL COUNCIL OF STATE POSITIONS AND TO MAKE TECHNICAL
CHANGES TO THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 22J of Chapter 163 of the General Statutes reads as rewritten:

"Article 22J.

"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 in North Carolina to the end that any eligible citizen of this State can realistically choose to seek and run for public office. 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 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, and to candidates for the Council of State offices of Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, and Commissioner of Labor 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



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- 1 G.S. 163-278.98(c). A write-in candidate authorized under G.S. 163-123 is
2 not eligible to become a certified candidate.
- 3 (5) Contested primary and contested general election. – An election in which
4 there are more candidates than the number to be elected.
- 5 (6) Contribution. – Defined in G.S. 163-278.6. A distribution from the Fund
6 pursuant to this Article is not a "contribution" and is not subject to the
7 limitations of G.S. 163-278.13 or the prohibitions of G.S. 163-278.15 or
8 G.S. 163-278.19. Instead of being subject to G.S. 163-278.16B, distributions
9 are subject to the guidelines issued by the Board pursuant to
10 G.S. 163-278.98(e)(5).
- 11 (6a) Electioneering communication. – As defined in G.S. 163-278.80 and
12 G.S. 163-278.90, except that it is made during the period beginning 30 days
13 before absentee ballots become available for a primary and ending on
14 primary election day and during the period 60 days before absentee ballots
15 become available for a general election and ending on general election day.
- 16 (7) Expenditure. – Defined in G.S. 163-278.6.
- 17 (8) Fund. – The North Carolina Voter-Owned Elections Fund established in
18 G.S. 163-278.97.
- 19 (9) Independent expenditure. – Defined in G.S. 163-278.6.
- 20 (10) Maximum qualifying contributions. – If the candidate has ~~an uncontested~~ no
21 primary, an amount equal to ~~100~~one hundred dollars (\$100.00) times the
22 ~~filing fee~~ minimum number of qualifying contributions required by
23 G.S. 163-278.98(b) for the office sought. If the candidate has a contested
24 primary, ~~200~~two hundred dollars (\$200.00) times the ~~filing fee~~ minimum
25 number of qualifying contributions required by G.S. 163-278.98(b) for the
26 office sought.
- 27 (11) Nonparticipating candidate. – A candidate for office who is not seeking to be
28 certified under G.S. 163-278.98(c).
- 29 (12) Office. – The Council of State offices of Secretary of State, Attorney
30 General, Treasurer, Auditor, Superintendent of Public Instruction,
31 Commissioner of Agriculture, Commissioner of Labor, and Commissioner
32 of Insurance.
- 33 (13) Participating candidate. – A candidate for office who has filed a declaration
34 of intent to participate under G.S. 163-278.98(a).
- 35 (14) Political committee. – Defined in G.S. 163-278.6.
- 36 (15) Qualifying contribution. – A contribution of not less than ten dollars
37 (\$10.00) and not more than two hundred dollars (\$200.00) in the form ~~of a~~
38 ~~check or money order~~ prescribed for noncash monetary contributions in
39 G.S. 163-278.14(b) to the candidate that meets both of the following
40 conditions:
- 41 a. Made by ~~any~~ an individual who is a registered voter in this
42 State ~~State~~ at the time of the submittal of the report specified in
43 G.S. 163-278.98(c).
- 44 b. Made only during the qualifying ~~period~~ period, except as provided in
45 G.S. 163-278.98(b1), and obtained with the approval of the candidate
46 or candidate's committee.
- 47 (16) Qualifying period. – The period beginning September 1 in the year before
48 the election and ending on the 10th day after the day of the primary.
- 49 (17) Trigger for matching funds. – The dollar amount at which matching funds
50 are released under G.S. 163-278.99B for certified candidates. In the case of a
51 contested primary, the trigger equals the maximum qualifying contributions

1 for the candidate. In the case of a contested general election, the trigger
2 equals the base level of funding available under G.S. 163-278.99(b)(4).

3 **"§ 163-278.97. Voter-Owned Elections Fund established; sources of funding.**

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

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

- 11 (1) Unspent Fund revenues distributed for an election that remain unspent or
12 uncommitted at the time the recipient is no longer a certified candidate in the
13 election.
- 14 (2) Money ordered returned to the Fund in accordance with G.S. 163-278.99D.
- 15 (3) Money paid to the Fund equal to excess contributions as provided in
16 G.S. 163-278.98(e)(1).
- 17 (4) Voluntary donations made directly to the Fund.
- 18 (5) Appropriations from the General Fund.

19 (c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every
20 four years thereafter, the Board, in conjunction with the Advisory Council established under
21 G.S. 163-278.68(b), shall prepare and provide to the Joint Legislative Commission on
22 Governmental Operations of the General Assembly a report documenting, evaluating, and
23 making recommendations relating to the administration, implementation, and enforcement of
24 this Article. In its report, the Board shall set out the funds received to date and the expected
25 needs of the Fund during the next election cycle and make recommendations about the
26 feasibility of expanding its provisions to include other candidates for State office based on the
27 experience of this Article and the experience of similar programs in North Carolina and other
28 states. The Board shall also evaluate and make recommendations regarding how to address
29 activities that could undermine the purpose of this Article, including spending that appears to
30 target candidates but is not reached by regulation.

31 **"§ 163-278.97A. Limitation on use of the Fund.**

32 If the amount in the Fund is less than two million two hundred fifty thousand dollars
33 (\$2,250,000) on August 1 of the year before an election, then only certified candidates for
34 Auditor, Superintendent of Public Instruction, and Commissioner of Insurance shall be eligible
35 for a distribution of funds in accordance with G.S. 163-278.99. Certified candidates for
36 Treasurer shall be eligible for a distribution of funds if the amount in the Fund is at least four
37 million five hundred thousand dollars (\$4,500,000). Certified candidates for Secretary of State,
38 Commissioner of Labor, and Commissioner of Agriculture shall be eligible for a distribution of
39 funds if the amount in the Fund is at least six million dollars (\$6,000,000). Certified candidates
40 for Attorney General shall be eligible for a distribution of funds if the amount in the Fund is at
41 least eight million dollars (\$8,000,000). Based upon documentation of the Fund's projected
42 receipts and other factors, the Board may lower the dollar amounts in this section by a majority
43 vote taken by September 1 of the year before an election.

44 **"§ 163-278.98. Requirements for participation.**

45 (a) Declaration of Intent to Participate. – Any individual choosing to receive campaign
46 funds from the Fund shall first file with the Board a declaration of intent to participate in the
47 program established by this Article as a candidate for a stated office. The declaration of intent
48 shall be filed before or during the qualifying period and before collecting any qualifying
49 contributions. In the declaration, the candidate shall swear or affirm that only one political
50 committee, identified with its treasurer, shall handle all contributions, campaign-related
51 expenditures, and obligations for the participating candidate and that the candidate will comply

1 with the contribution and expenditure limits set forth in subsection (e) of this section and all
2 other requirements set forth in this Article or adopted by the Board. Failure to comply is a
3 violation of this Article.

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

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

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

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

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

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

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

- 39 (1) Beginning August 1 of the year before the election and before filing a
40 declaration of intent, a candidate shall limit campaign-related expenditures
41 to twenty thousand dollars (\$20,000) and shall not accept more than twenty
42 thousand dollars (\$20,000) from sources and in amounts permitted by
43 Article 22A of this Chapter. A candidate who exceeds either of these limits
44 shall be ineligible to file a declaration of intent or receive funds from the
45 Fund. However, the acceptance of contributions in excess of that twenty
46 thousand dollar (\$20,000) limit does not render the candidate ineligible if the
47 candidate pays to the Board an amount equal to the contributions accepted
48 by the candidate in excess of that limit. The Board shall deposit all such
49 payments into the Fund.
- 50 (2) From the filing of a declaration of intent through the end of the qualifying
51 period, a candidate may accept only qualifying contributions, contributions

- 1 under ten dollars (\$10.00) from North Carolina voters, in-kind party
2 contributions as permitted in subdivision (4) of this subsection, and personal
3 and family contributions permitted under subdivision (4a) of this subsection.
4 The total contributions the candidate may accept during this period shall not
5 exceed the maximum qualifying contributions for that candidate. Except for
6 personal and family contributions permitted under subdivision (4a) of this
7 subsection, multiple contributions from the same contributor to the same
8 candidate shall not exceed two hundred dollars (\$200.00). In addition to
9 these contributions, the candidate may only expend during this period the
10 remaining money raised pursuant to subdivision (1) of this subsection and
11 possible matching funds received pursuant to G.S. 163-278.99B. If the
12 candidate has any remaining money that was raised as contributions before
13 August 1 of the year before the election, the candidate may not expend that
14 money after filing the declaration of intent, except for purposes permitted
15 under subdivision (2), (3), (6), (7), or (8) of G.S. 163-278.16B(a).
- 16 (3) After the qualifying period and through the date of the general election, the
17 candidate shall cease campaign-related fund-raising ~~activities—activities,~~
18 except as provided in subsection (b1) of this section, and shall expend only
19 the funds the candidate receives from the Fund pursuant to
20 G.S. 163-278.99(b) plus any funds remaining from the qualifying period and
21 possible matching funds.
- 22 (4) In addition to the amounts above, a candidate may accept in-kind
23 contributions from political party executive committees, up to an aggregate
24 value of thirty thousand dollars (\$30,000) for the election cycle.
- 25 (4a) During the qualifying period, the candidate may contribute up to one
26 thousand dollars (\$1,000) of that candidate's own money to the campaign.
27 Debt incurred by the candidate for a campaign expenditure shall count
28 toward that limit. The candidate may accept in contributions one thousand
29 dollars (\$1,000) from each member of that candidate's family consisting of
30 spouse, parent, child, brother, and sister. Up to two hundred dollars
31 (\$200.00) of a contribution from the candidate's family member may be
32 treated as a qualifying contribution if it meets the requirements of
33 G.S. 163-278.96(15)a. and b.
- 34 (5) A candidate and the candidate's committee shall limit the use of all revenues
35 permitted by this subsection to expenditures for campaign-related purposes
36 only. The Board shall publish guidelines outlining permissible
37 campaign-related expenditures.
- 38 (6) Except as provided in subdivision (1) of this subsection, any contribution
39 received by a participating or certified candidate that falls outside that
40 permitted by this subsection shall be returned to the donor as soon as
41 practicable. Contributions intentionally made, solicited, or accepted in
42 violation of this Article are subject to civil penalties as specified in
43 G.S. 163-278.99D. The funds involved shall be forfeited to the Civil Penalty
44 and Forfeiture Fund.
- 45 (7) A candidate shall return to the Fund any amount distributed for an election
46 that is unspent and uncommitted at the date of the election or at the time the
47 individual ceases to be a certified candidate, whichever occurs first. For
48 accounting purposes, all qualifying, personal, and family contributions shall
49 be considered spent before revenue from the Fund is spent or committed.
- 50 (f) Revocation. – A candidate may revoke, in writing to the Board, a decision to
51 participate in the Fund at any time. After a revocation, that candidate may accept and expend

1 outside the limits of this Article without violating this Article. Within 10 days after revocation,
2 a candidate shall return to the Board all money received from the Fund.

3 **"§ 163-278.99. Distribution from the Fund.**

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

7 (1) One-third of the amount within five business days after the certified
8 candidate's name is approved to appear on the ballot in a contested general
9 election, but no earlier than five business days after the primary.

10 (2) The remainder of the amount on August 1 before the general election.

11 (b) Amount of Fund Distribution. – ~~By August 1, 2011, and no less frequently than~~
12 ~~every four years thereafter, No later than August 1 of the second year before an election, the~~
13 Board shall determine the amount of funds, ~~rounded to the nearest one hundred dollars~~
14 ~~(\$100.00),~~ to be distributed to certified candidates as follows:

15 (1) ~~Uncontested primaries. No primary.~~ – No funds shall be distributed.

16 (2) Contested primaries. – No funds shall be distributed except as provided in
17 G.S. 163-278.99B.

18 (3) Uncontested general elections. – No funds shall be distributed.

19 (4) Contested general elections. – The amount of funds to be distributed to a
20 candidate is the average amount of campaign-related expenditures made in
21 the general election by all candidates who won the immediately preceding
22 three general elections for that office, rounded to the nearest one thousand
23 dollars (\$1,000), but not less than three hundred thousand dollars
24 (\$300,000). The distribution amount shall be reduced by an amount equal to
25 the amount equal to the amount raised in qualifying contributions after the
26 day of the primary. For purposes of this subsection, "campaign-related
27 expenditures" does not include loan repayments and contributions to a
28 candidate, political committee, or political party. For purposes of this
29 subsection, expenditures are made in the general election if they are required
30 to be reported on the third and fourth quarterly reports.

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

39 **"§ 163-278.99A. Reporting requirements.**

40 (a) Reporting by Noncertified Candidates and Other Entities. – Any nonparticipating
41 candidate with a certified opponent shall report total contributions received to the Board by
42 facsimile machine or electronically within 24 hours after the total amount of contributions
43 received exceeds eighty percent (80%) of the trigger for matching funds as defined in
44 G.S. 163-278.96(17). Any entity making independent expenditures in support of or in
45 opposition to a certified candidate, or in support of a candidate opposing a certified candidate,
46 or paying for electioneering communications referring to one of those candidates, shall report
47 the total funds received, spent, or obligated for those expenditures or payments to the Board by
48 facsimile machine or electronically within 24 hours after the total amount of expenditures or
49 obligations made, or funds raised or borrowed, for the purpose of making the independent
50 expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After
51 the initial 24-hour filing, the nonparticipating candidate or other reporting entity shall comply

1 with an expedited reporting schedule. The schedule and forms for reports required by this
2 subsection shall ~~be~~ be supplied by the Board.

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

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

13 **"§ 163-278.99B. Matching funds.**

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

21 (1) The greater of the following:

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

28 b. The funds distributed in accordance with G.S. 163-278.99(b) to a
29 certified opponent of the certified candidate.

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

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

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

43 (d) Determinations by Board. – In the case of electioneering communications, the
44 Board shall determine which candidate, if any, is entitled to receive matching funds as a result
45 of the communication. The Board shall issue matching funds based on the communication only
46 if it ascertains that the communication is susceptible of no reasonable interpretation other than
47 as an appeal to vote for or against a specific candidate. In making its determination, the Board
48 shall not consider evidence external to the communication itself of the intent of the sponsor or
49 the effect of the communication. The Board shall notify each candidate it determines is entitled
50 to receive matching funds based on those communications, the sponsor of those
51 communications, and any candidate who is an opponent of the candidate it determines is

1 entitled to the matching funds. The Board shall give the sponsor of the communication and any
2 opposing candidate an adequate opportunity to rebut the determination of the Board. In
3 considering the rebuttal, all candidates in the race and the sponsor shall be given adequate and
4 equal opportunity to be heard. The Board shall adopt procedures for implementing this
5 subsection, balancing in those procedures adequacy of opportunity to rebut and adequacy and
6 equality of opportunity to be heard on the rebuttal with the need to expedite the decision on
7 awarding matching funds. The Board shall distribute the matching funds, if any, at the
8 conclusion of its process.

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

13 (f) No Matching Funds for Certain Communications Involving All Candidates. – No
14 matching funds are available under this section as a result of an expenditure that supports all
15 candidates for the same office or opposes all candidates for the same office. No matching funds
16 are available under this section as a result of an electioneering communication that the Board
17 ascertains is susceptible of no reasonable interpretation other than as an appeal to vote for all
18 candidates for the same office or to vote against all candidates for the same office.

19 **"§ 163-278.99C. Unaffiliated and new-party candidates.**

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

26 **"§ 163-278.99D. Enforcement by the Board; civil penalty.**

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

38 **"§ 163-278.99D.1. Enforcement and administration.**

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 evidence to demonstrate that the decision of the

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

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

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

24 **"§ 163-278.99E. Voter education.**

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

35 (b) Candidate Information. – The Voter Guide shall include information concerning all
36 candidates for office as defined in G.S. 163-278.96(12), all 10 of the offices of the Council of
37 State, as provided by those candidates according to a format provided to the candidates by the
38 Board. The Board shall request information for the Guide from each candidate according to the
39 following format:

40 (1) Place of residence.

41 (2) Education.

42 (3) Occupation.

43 (4) Employer.

44 (5) Previous elective offices held.

45 (6) Endorsements, limited to 50 words. Endorsements. Concerning
46 endorsements, the Board shall send to the candidates instructions as follows:
47 "In order to have an endorsement published, you must provide written
48 confirmation to the Board from the endorsing person or organization that
49 you received that person's or organization's endorsement."

50 (7) Candidate statement, limited to 150 words. Statement. Concerning that
51 statement, the Board shall send to the candidates instructions as follows:

1 "Your statement may include information such as your qualifications, your
2 endorsements, why you would make a good elected official, what
3 distinguishes you from your opponent(s), and any other information relevant
4 to your candidacy. The State Board of Elections will reject any portion of
5 any statement which it determines contains obscene, profane, or defamatory
6 language. The candidate shall have three days to resubmit the candidate
7 statement if the Board rejects a portion of the statement."

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

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

11 (d) Relationship to the Judicial Voter Guide. —~~The Board may~~ Whenever possible, the
12 Board shall publish the Voter Guide in conjunction with the Judicial Voter Guide described in
13 G.S. 163-278.69."

14 **SECTION 2.** There is appropriated from the General Fund to the State Board of
15 Elections the sum of two million dollars (\$2,000,000) for the 2009-2010 fiscal year and the
16 sum of seven million one hundred sixty thousand dollars (\$7,160,000) for the 2010-2011 fiscal
17 year for the implementation of this act.

18 **SECTION 3.** The provisions of this act are severable. If any provision of this act is
19 held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions
20 of the act that can be given effect without the invalid provision.

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