

# **The North Carolina Voter Owned Elections Fund**

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## **Status Report to the Joint Legislative Committee on Governmental Operations**

**2011**

**Submitted by the North Carolina State Board of  
Elections**

## **Overview of Program**

The North Carolina Voter Owned Elections Fund was signed into law on August 31, 2007. The legislation established a pilot program to provide candidates for State Auditor, Commissioner of Insurance and Superintendent of Public Instruction with the option of financing their campaigns from a publicly supported fund provided they demonstrate support by raising small dollar donations from North Carolina registered voters and agree to abide by strict fund-raising and spending limits. This Fund has only been utilized in the 2008 election.

Specifically, the program allows candidates that voluntarily declare their intent to seek certification the ability to receive public funds after they have demonstrated their support by receiving at least the minimum amount and not exceeding the maximum amount of qualifying contributions from at least 750 registered voters in North Carolina. A candidate becoming certified is eligible to receive revenue from the Fund for the General Election if that candidate was successful in the Primary. According to current law, certified candidates receive a general distribution if they are successful in the Primary. An additional revenue source for certified candidates from the Fund has been “matching funds” Matching funds have been available to certified candidates when disclosure reports shows that “funds in opposition to a certified candidate or in support of an opponent to that candidate” exceed the trigger for matching funds. (NCGS § 163-278.99B)

On June 27, 2011, the United States Supreme Court determined in *Arizona Free Enterprise Club’s Freedom Club PAC ET AL. v. Bennett, Secretary of State of Arizona, ET AL.*, that the release of matching funds

in Arizona's public funding program "substantially burdens the speech of privately financed candidates and independent expenditure groups without serving a compelling state interest." Any potential impact of this decision has not yet been legislatively addressed. Until such impact is addressed, it is difficult to make recommendations for expansion or addressing activities that could undermine the purposes of the Article.

## **Fund Status**

The Fund is reliant upon appropriations from the General Assembly. No appropriations have been made to the Fund since 2008. As of August 31, 2011, the Fund had a balance of \$426,516.59. To date, one candidate for Commissioner of Insurance has filed a Declaration of Intent to participate in the program.

## **Projected Candidate Allocations from the NC Voter-Owned Elections (VOE) Fund for 2012**

As stated earlier, candidates for three offices are subject to participate in the VOE program. All three offices are on the 2012 ballot. The program allocates at least \$300,000.00 to a certified candidate that will appear on the General Election ballot. This amount can be greater if the average amount of campaign-related expenditures of winning candidates for the specific office over the last three elections was greater than \$300,000. As seen by the current balance of the Fund, without an additional appropriation, there are insufficient funds available to fully fund candidates for the three offices. Pursuant to NCGS § 163-278.99(c), "If the money in the Fund is insufficient to fully fund all certified candidates, then the available money shall be distributed proportionally, according to each candidate's eligible funding, and the candidate may raise additional money in the same manner as a nonparticipating candidate for the same office up to the unfunded amount of the

candidate's eligible funding." Based on an analysis of campaign-related expenditures for successful candidates for the three offices over the last three elections, only candidates for Commissioner of Insurance would be subject to receiving more than \$300,000.00 from the Fund as a general distribution. Also, if matching funds were available for the 2012 election, candidates for Commissioner of Insurance would also be subject to a greater amount of matching funds. Since revenues appear insufficient to fund candidates, it would be projected that all available revenue in the Fund would be expended. Until the number of certified candidates is known, it is not possible to calculate the portion of the Fund each certified candidate would be allocated.

Even if the recent Supreme Court decision was not a factor in releasing matching funds, based on the available revenue, matching funds would not appear possible for the 2012 election.

## **2008 Summary**

Four candidates were certified as eligible to receive funds from the Voter-Owned Elections Fund for the 2008 Election. Prior to the release of any matching funds, candidate distributions for these four candidates were \$1,360,818.00. A total of \$6,947.47 was disbursed in matching funds to two candidates. The grand total of \$1,367,881.90 was disbursed for the 2008 General Election.