

The North Carolina Voter Owned Elections Fund

**Supplemental Report to the Joint Legislative
Committee on Governmental Operations**

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**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.

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 and Projected Candidate Allocations for the 2012 Election

The Fund is reliant upon appropriations from the General Assembly. No appropriations have been made to the Fund since 2008. As of June 29, 2012, the Fund had a balance of \$286,042.10.

There are two certified candidates in the VOE Program. No other candidates for the three offices included in the program are subject to any funding by the VOE Fund. The certified candidates are Beth Wood, candidate for State Auditor, and June Atkinson, candidate for Superintendent of Public Instruction. Both candidates complied with the requirements of the program and were entitled to receive \$300,000 each from the Fund. However, the available revenue in the Fund was inadequate to provide each candidate \$300,000. Therefore, pursuant to NCGS § 163-278.99(c), the available funds were apportioned equally between the two candidates. As provided by statute, one-third of each candidate's apportionment (\$71,419.42) was distributed on May 24, 2012, after the candidate's name was certified to appear on the general election ballot.

On August 1, 2012, they will both receive the remainder of their disbursement from the Fund. Each candidate will receive \$143,021.05. This amount includes the initial calculated apportionment and the apportioned interest earned by the Fund since the initial apportionment was calculated.

As provided by statute (NCGS § 163-278.99(c)), each candidate will be entitled to raise additional campaign contributions in the same manner as non-participating candidates in the amount of \$85,559.53 since the Fund could not provide full funding.

The only remaining revenue in the Fund would be any interest earned for the month of July. Upon notification of the earned interest amount, a final disbursement will be made to both candidates. Based on interest earned over the past two months, this amount would be approximately \$91.00. This would be the final disbursement from the Fund, bringing the balance to \$0.