

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1039

Short Title: N.C. Fair Campaign Act.

(Public)

Sponsors: Senators Gulley and Winner.

Referred to: Judiciary II/Election Laws

May 4, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE INCENTIVES FOR CANDIDATES FOR THE GENERAL ASSEMBLY TO LIMIT THEIR CAMPAIGN EXPENDITURES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 22D.

"NORTH CAROLINA FAIR CAMPAIGN ACT.

"§ 163-278.58. Purpose.

The General Assembly finds that exorbitant campaign costs threaten valued traditions of North Carolina: a citizen legislature, equal opportunity for access to the General Assembly, and public trust in the institution of the General Assembly. The purpose of the North Carolina Fair Campaign Act is to encourage candidates for the General Assembly of North Carolina to limit their campaign expenditures by providing public benefits as incentives to those candidates and to their supporters.

"§ 163-278.59. Eligibility for public benefits: application, certification, and decertification.

(a) Eligibility. – The public benefits provided in G.S. 163-278.61 shall be made available for an election only with regard to an eligible candidate for the General Assembly in that election. For the purpose of this Article, an 'eligible candidate for the

1 General Assembly' for an election is a candidate for the General Assembly who is
2 certified for that election by the State Board of Elections in accordance with subsection
3 (c) of this section to have:

4 (1) Agreed to abide by the expenditure limits set out in G.S. 163-278.60;
5 and

6 (2) Agreed to submit to periodic audits of the campaign account by the
7 State Board of Elections; and

8 has not been determined by the State Board of Elections to have violated the expenditure
9 limits set out in G.S. 163-278.60 or withdrawn application under G.S. 163-278.62 and
10 therefore been decertified for that election in accordance with subsection (d) of this
11 section. For purposes of this Article, a primary in which the candidate is on the ballot, a
12 second primary in which the candidate is on the ballot, and a general election in which
13 the candidate is on the ballot constitute a separate election.

14 (b) Application. – Each candidate who seeks to be an eligible candidate for the
15 General Assembly for an election shall file an application on forms prescribed by the
16 State Board of Elections as follows:

17 (1) A candidate in a party primary may file an application for eligibility in
18 that primary after filing a notice of candidacy under G.S. 163-106 or
19 G.S. 163-112.

20 (2) A candidate in a second primary may file an application for eligibility in
21 the second primary after being notified under G.S. 163-111(c)(3) that a
22 second primary will be held.

23 (3) A nominee of a party may file an application for eligibility in the
24 general election after being declared the nominee under G.S. 163-110,
25 163-111, or 163-114.

26 (4) An unaffiliated candidate may file an application after successfully
27 filing the required petition under G.S. 163-122.

28 (5) A write-in candidate may file an application for eligibility in the general
29 election after filing the certification of the petitions as required by G.S.
30 163-123.

31 A candidate may file an application for eligibility in the election at any time after the
32 commencement of that candidate's candidacy up until December 31 of the year of the
33 election, but the public benefit specified in G.S. 163-278.61(a)(3) shall be provided only
34 to candidates certified before the printing of the ballot.

35 (c) Certification. – The State Board of Elections shall approve the application of
36 any candidate who complies with subdivisions (a)(1) and (a)(2) of this section and shall
37 certify that candidate as an eligible candidate for the General Assembly in that election.

38 (d) Decertification. – If the State Board of Elections determines that a candidate
39 certified under this section has violated the expenditure limits under G.S. 163-278.60 or if
40 the candidate withdraws application under G.S. 163-278.62, the State Board of Elections
41 shall decertify that candidate for that election, and the public benefits set out in G.S. 163-
42 278.61 shall not be provided to any person whose receipt of those benefits derives from
43 the eligibility of that candidate under this Article in that election.

1 **"§ 163-278.60. Expenditure limits.**

2 (a) Limits for an Election. – Any eligible candidate for the General Assembly in
3 an election shall limit total expenditures in that election as follows:

4 (1) For any general election that occurs after the candidate has been
5 certified under G.S. 163-278.59(c), fifty cents (50¢) times the average
6 of the total votes cast in the two most recent general elections for the
7 same office in which more than the number of candidates to be elected
8 were on the ballot.

9 (2) For any primary election that occurs after the candidate has been
10 certified under G.S. 163-278.59(c), fifty cents (50¢) times the average
11 of the total votes cast in the two most recent primary elections of the
12 same degree (first or second) for the same office in which more than the
13 number of candidates to be elected were on the ballot.

14 In an election year in which new legislative districts are in place, the formula shall be
15 computed using the former district where the candidate's current residence was situated
16 prior to redistricting. The candidate's current residence shall be determined as of the time
17 of filing notice of candidacy.

18 (b) Rules for Computing Total Expenditures for an Election. – For purposes of this
19 section:

20 (1) Any expenditure to further the candidate's candidacy made before a first
21 or only primary shall be counted toward the total expenditures for that
22 primary, regardless of whether the expenditure was made before or after
23 the candidate's notice of candidacy or before or after the beginning of
24 the calendar year in which the election is held.

25 (2) Any expenditure made on the day of any election shall be counted
26 toward the total expenditures for that election.

27 (3) Any expenditures made after a primary shall be counted toward that
28 primary if the candidate was defeated in the primary and toward the
29 next election in the election year if the candidate will be entitled to have
30 votes counted in that election.

31 (4) Any expenditure made after the general election but before the end of
32 that year shall be counted toward the total expenditures of the general
33 election.

34 (5) An expenditure is made at the time a contractual obligation is reached
35 between the candidate's campaign and the recipient that the expenditure
36 will be made, regardless of when payment is delivered.

37 **"§ 163-278.61. Public benefits.**

38 (a) Availability of Public Benefits. – If a candidate is certified under G.S. 163-
39 278.59(c) as an eligible candidate for the General Assembly, the following public
40 benefits shall be made available:

41 (1) An individual income tax credit under G.S. 105-151.25 for the taxpayer
42 who makes a contribution to that candidate for that election;

1 (2) Notwithstanding the provisions of G.S. 163-278.13, any individual or
2 political committee may make to that candidate's campaign, and that
3 candidate's campaign may accept or solicit from any individual or
4 political committee, two thousand dollars (\$2,000) for the election for
5 which the candidate is certified;

6 (3) That candidate's name on the ballot shall be designated in a conspicuous
7 way that indicates to the voter that the candidate has agreed to abide by
8 expenditure limitations. The State Board of Elections shall promulgate
9 rules to ensure that this designation is executed in a manner that is
10 desirable for the candidate.

11 (b) Consequences of Decertification. – If a candidate who was certified as an
12 eligible candidate for the General Assembly for an election is decertified for that election
13 under G.S. 163-278.59(d) before January 1 of the year after the election, the benefits of
14 subsection (a) of this section that derive from that candidate's eligibility in that election
15 shall not be available to any person. Accordingly, if a candidate certified for an election
16 is decertified for that election before January 1 of the year after that election:

17 (1) An individual shall not receive a tax credit for a contribution to the
18 campaign of the candidate for that election, although the individual
19 made the contribution while the candidate was certified for that election.

20 (2) A contribution shall not be permitted for that election in an amount
21 exceeding what is permitted in G.S. 163-278.13, although the
22 contribution was made while the candidate was certified for that
23 election. To the extent that the contribution in the previous sentence
24 does not exceed two thousand dollars (\$2,000), no criminal prosecution
25 shall be brought against a contributor, and the candidate's treasurer shall
26 be required to refund the excess to the contributor.

27 If an eligible candidate is decertified before the ballot is printed for the election, the
28 board of elections responsible for the ballot shall not mark that candidate's name with the
29 designation required by subdivision (a)(3) of this section. If an eligible candidate is
30 decertified after the ballot is printed for the election, the board of elections responsible
31 for the ballot shall make a corrected designation of the candidate's name on the ballot
32 according to rules which shall be promulgated by the State Board of Elections.

33 Any candidate shall give written notice of that candidate's decertification to all
34 contributors within 10 days after the decertification if the contributors made their
35 contributions during the time the candidate was certified.

36 **"§ 163-278.62. Withdrawal of application.**

37 A candidate, by written notice to the State Board of Elections not more than 70 days
38 before the election, may withdraw application for certification as an eligible candidate for
39 the General Assembly for an election, provided that a candidate may not withdraw an
40 application for certification for a second primary. If the candidate has been certified
41 under G.S. 163-278.59(c) before making the withdrawal request, the State Board of
42 Elections shall decertify the candidate under G.S. 163-278.59(d), noting on the
43 decertification document that the decertification was made because of a withdrawal.

1 **"§ 163-278.63. Reporting.**

2 In addition to the reports required by G.S. 163-278.9, the treasurer of any eligible
3 candidate for the General Assembly shall file under verification with the State Board of
4 Elections a report prior to the printing of the ballot for the election. The State Board of
5 Elections shall establish by February 1 of every election year a schedule for all the
6 reports required by this section for that year. In establishing the schedule, the State
7 Board of Elections shall require that a report be filed at the latest reasonable date prior to
8 the printing of the ballot that will enable the proper boards of elections to complete their
9 duties under this Article.

10 **"§ 163-278.64. Penalties.**

11 (a) Decertification Due to Withdrawal. – If an eligible candidate for the General
12 Assembly is decertified for an election due to timely withdrawal, no criminal or civil
13 penalty shall attach to exceeding the expenditure limits of G.S. 163-278.60 after the
14 candidate gives written notice of withdrawal under G.S. 163-278.62.

15 (b) Misdemeanor Penalty. – Any eligible candidate for the General Assembly or
16 treasurer of that candidate's committee who exceeds the expenditure limits of G.S. 163-
17 278.60 for an election:

- 18 (1) While the candidate is certified for that election under G.S. 163-279.59;
19 or
20 (2) After the candidate is decertified for a violation of this Article is guilty
21 of a Class 2 misdemeanor.

22 **"§ 163-278.65. Duties of State Board of Elections.**

23 The State Board of Elections shall promulgate rules to enforce this Article. The rules
24 shall include a procedure for monitoring compliance based on the reports under G.S. 163-
25 278.63 and on random audits of campaign accounts."

26 Sec. 2. Division II of Article 4 of Chapter 105 of the General Statutes is
27 amended by adding a new section to read:

28 **"§ 105-151.25. Credit for making political contribution to an eligible candidate for**
29 **the General Assembly.**

30 A taxpayer who makes a political contribution for an election to an eligible candidate
31 under G.S. 163-278.59 is allowed as a credit against the tax imposed by this Division an
32 amount equal to seventy-five percent (75%) of the contribution made during the taxable
33 year. The credit allowed under this section may not exceed one hundred dollars
34 (\$100.00) for the taxable year. The credit allowed under this section may not exceed the
35 amount of tax imposed by this Division for the taxable year reduced by the sum of all
36 credits allowed, except payments of tax made by or on behalf of the taxpayer."

37 Sec. 3. G.S. 163-278.13 reads as rewritten:

38 **"§ 163-278.13. Limitation on contributions.**

39 (a) No individual or political committee shall contribute to any candidate or other
40 political committee any money or make any other contribution in any election in excess
41 of four thousand dollars (\$4,000) for that election.

1 (b) No candidate or political committee shall accept or solicit any contribution
2 from any individual or other political committee of any money or any other contribution
3 in any election in excess of four thousand dollars (\$4,000) for that election.

4 (b1) Notwithstanding the provisions of subsections (a) and (b) of this section and
5 except as provided by Article 22D of this Chapter, no individual or political committee
6 shall contribute to any candidate for the General Assembly in any election in excess of
7 five hundred dollars (\$500.00) for that election, and no candidate for the General
8 Assembly shall accept or solicit any contribution in any election in excess of five hundred
9 dollars (\$500.00) for that election.

10 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, it
11 shall be lawful for a candidate or a candidate's spouse, parents, brothers and sisters to
12 make a contribution to the candidate or to the candidate's treasurer of any amount of
13 money or to make any other contribution in any election in excess of four thousand
14 dollars (\$4,000) for that election.

15 (d) For the purposes of this section, the term 'an election' means any primary,
16 second primary, or general election in which the candidate or political committee may be
17 involved, without regard to whether the candidate is opposed or unopposed in the
18 election.

19 (e) This section shall not apply to any State, district or county executive
20 committee of any political party. For the purposes of this section only, the term 'political
21 party' means only those political parties officially recognized under G.S. 163-96.

22 (e1) No referendum committee which received any contribution from a corporation,
23 labor union, insurance company, business entity, or professional association may make
24 any contribution to another referendum committee, to a candidate or to a political
25 committee.

26 (f) Any individual, candidate, political committee, or referendum committee who
27 violates the provisions of this section is guilty of a Class 2 misdemeanor."

28 Sec. 4. Section 1 of this act becomes effective January 1, 1996, and applies to
29 all primaries and elections held on or after that date. Section 2 of this act becomes
30 effective with respect to taxable years beginning on or after January 1, 1996.