

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1054 (House Committee Substitute # 3; 7th Edition)

SHORT TITLE: Judicial Campaign Reform Act

SPONSOR(S): Sen. Gulley

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
REVENUE					
NC Public Campaign Financing Fund					
Transfer from Candidates'					
Financing Fund	\$360,323				
Privilege License/Voluntary Contribution			Up to \$576,250 annually but see assumptions and methodology		
Taxpayer Designation	\$0	\$1,217,415,	\$1,217,415	\$1,217,415	\$1,217,415
General Fund					
Taxpayer Designation	\$0	(\$1,217,415)	(\$1,217,415)	(\$1,217,415)	(\$1,217,415)
EXPENDITURES					
NC Public Campaign Financing Fund					
Public Financing		\$680,000	\$0	\$1,912,800	\$0
State Bd. of Elections	\$37,200NR	\$0	\$0	\$0	\$0
	\$56,619	\$806,619	\$806,619	\$806,619	\$806,619
POSITIONS:		1	1	1	1
Candidates' Financing Fund					
Department of Revenue	\$178,600	\$0	\$0	\$0	\$0

second primary may receive the same amount of rescue funds for the second primary campaign.

- In the general election, an initial amount of 175% of the position's salary for Supreme Court candidates ($\$115,336 * 1.75 = \$201,800$) and 125% of the position's salary for Court of Appeals candidates ($\$110,530 * 1.25 = 138,200$ rounded to the nearest hundred).
- In the general election, rescue funds to match opposition spending that exceeds the initial award, up to twice that amount.

Based on the base distribution per candidate and the number of seats for the Supreme Court and the Court of Appeals that are up for election in 2004, 2006, and 2008, the amount needed to fund publicly financed campaigns for the appellate judiciary for each of those election years is noted in the table below, assuming 100% participation.

SUMMARY OF FUNDS REQUIRED FOR DISTRIBUTION TO CANDIDATES CERTIFIED TO PARTICIPATE IN PUBLICLY FINANCED CAMPAIGNS

	2004			2006			2008			
	Base	Seats	Cand. Funding	Seats	Cand. Funding	Seats	Cand. Funding			
Supreme Court	\$201,800	1	2	\$403,600	2	4	\$807,200	2	4	\$807,200
Court of Appeals	\$138,200	1	2	\$276,400	4	8	\$1,105,600	5	10	\$1,382,000
Total for Appellate Judiciary				\$680,000			\$1,912,800			\$2,189,200

Please note that in the above calculations, no assumptions were made about how much additional public funding would be required if privately funded candidates exceeded spending limits and triggered the release of matching or “rescue” funds to publicly funded candidates. However, it should be noted that if less than 100 % of the candidates opt for public funding, the money anticipated for their campaigns, as indicated in the table above, would be available for rescue funds.

The Fiscal Research Division believes the formula is consistent with the requirements of the bill and the estimates for the amount needed for the NC Public Campaign Financing Fund appear reasonable. The bill requires the SBE to advise the Joint Legislative Commission on Governmental Operations of the funds received and the expected needs of the Fund during the next election cycle. The first report is due before October 1, 2003 and subsequent reports are due every two years thereafter.

The bill specifies that the source of funding will be unspent NC Public Campaign Financing Fund grants; monies transferred from the NC Candidates’ Financing Fund, tax return designations of \$3 from each taxpayer who agrees to make the designation, and voluntary donations. The bill also requires that a \$50 voluntary contribution for the Fund be requested from attorneys who pay the \$50 privilege license.

This bill abolishes the Candidates’ Financing Fund that was established by G.S. § 105-269.6. Currently, that fund has a balance of \$538,923. The bill authorizes the Department of Revenue (DOR) to draw up to \$178,600 from the Candidates’ Financing Fund to cover its nonrecurring cost associated with this bill. The bill also directs DOR to immediately

transfer the remaining balance, estimated to be \$360,323, to the new NC Public Campaign Financing Fund.

The bill provides that each taxpayer may elect to make a \$3 designation to the Fund. Currently, taxpayers may designate \$1 of their liability for the NC Political Parties Fund. In tax year 2000, 399,566 or 8 % of the 5,072,563 individual taxpayers (including single and joint filers) chose to make the designation. Assuming that 8% would also choose to make a \$3 designation for the NC Public Campaign Financing Fund, the tax liability designated for the Fund would be approximately \$1,217,415 ($5,072,563 * .08 * \$3 = \$1,217,415$).

The bill provides that each attorney who is required by N.C. G.S. § 105-41 to obtain a \$50 privilege license will be requested to pay an additional \$50 to fund the NC Public Campaign Financing Fund. Based on July 1, 2002 renewals and license applications, 11,525 attorneys pay the \$50 privilege license fee. The NC Bar Association believes that a high percentage of the attorneys will make the \$50 voluntary contribution. However, neither the NC Bar Association nor the Fiscal Research Division has a reasonable estimate of what that percentage is. If 100% of the attorneys who pay the privilege license fee choose to make the \$50 contribution, the total revenue to the NC Public Campaign Financing Fund from this source would be \$576,250 annually. Fees for privilege license renewals are collected near the end of each fiscal year, i.e. 90% are collected in May and June, and the balance (10%) in July of the subsequent fiscal year. Therefore, the first opportunity for contribution would occur in FY 04-05, specifically, in July 2004 when the balance or 10% of renewals fees (from FY 03-04) will be collected and, again, in May and June 2005 when 90% of renewal fees for FY 04-05 are collected.

Fiscal Research has no basis for estimating the amounts, if any, that will come from unspent grants from the NC Public Campaign Financing Fund and voluntary donations.

A summary of the required funding for candidates and the estimated revenue is noted in the table below. Cumulative revenue collections over the five-year period beginning with fiscal year 2002-2003 would significantly exceed the funding needed for the 2004, 2006, and 2008 elections if 8% of the taxpayers made the \$3 designation and 100% of the attorneys elected to make the \$50 voluntary contribution.

Analysis of Revenue and Required Funding for Candidates by Fiscal Year Based on \$3 Designation

Election	Fiscal Year	Transfer from Candidate FF	Taxpayer Designation**	Privilege License *	Total Revenue	Req'd Funding Public Fin.
	2002-03	\$360,323	\$0	\$0	\$360,323	\$0
2004	2003-04	\$0	\$1,217,415	\$0	\$1,217,415	\$680,000
	2004-05	\$0	\$1,217,415	\$576,250	\$1,793,665	\$0
2006	2005-06	\$0	\$1,217,415	\$576,250	\$1,793,665	\$1,912,800
	2006-07	\$0	\$1,217,415	\$576,250	\$1,793,665	\$0
2008	2007-08	\$0	\$1,217,415	\$576,250	\$1,793,665	\$2,189,200
Total		\$360,323	\$6,087,076	\$2,305,000	\$8,752,399	\$4,782,000

* Assumes 100% election by attorneys (11,525) to pay \$50 increase in privilege tax.

** Assumes that 8% of the 5,072,563 taxpayers will make a \$3 designation ($5,072,563 * .08 * \$3 = \$1,217,415$)

Please note that the estimates assume the number of taxpayers would remain constant and there would be no change in the base level based on salary increases.

Also, any funds that would be designated for the NC Public Campaign Financing Fund would normally go to the General Fund. **Thus, any amount designated for the Fund would decrease General Fund availability.**

Administration of the Legislation

The bill provides that the administrative and enforcement cost of the Board related to the NC Public Campaign Financing Fund is to be a cost of the Fund. It also provides that the cost of the Department of Revenue is to come from the Candidates' Financing Fund before it is abolished.

State Board of Elections:

This bill requires the State Board of Elections (SBE or Board) to administer the Judicial Campaign Reform Act (Act). The Board estimates that administration of the Act will require changes to their campaign reporting system to facilitate capture of income and expenditures by type as well as by election (i.e., primary vs. general). For example, the bill requires participating candidates to obtain qualifying contributions and it would limit the expenditure of participating candidates. The current system would have to be modified to capture the income and expenditure data. The estimated cost for modifying the system is \$31,200 nonrecurring.

The Board also estimates that they will need to hire a full-time accounting employee at a grade 77 (Accountant III) to manage the fund. The minimum salary for a grade 77 position is \$43,219 and the benefits total \$8,400 for a total of \$51,619. The nonrecurring operating cost is estimated to be \$6,000 for office furniture and equipment and computer equipment.

The bill establishes a five-member Advisory Council for the NC Public Campaign Financing Fund that would be responsible for advising the Board on the rules and opinions it adopts for the enforcement and administration of this Act and the funding needs of the NC Public Campaign Financing Fund. The Board estimates that the expenditures of the Council will include the per diem and travel cost incurred to attend meetings scheduled to accomplish its statutory responsibilities. The members will receive the legislative per diem pursuant to G.S. 120-3.1, which is currently \$104 plus mileage at 29 cents per mile. Assuming the Council meets quarterly for two days each meeting, the estimated cost is approximately \$5,000 ($\$104/\text{day} * 2 \text{ days for each meeting} * 5 \text{ members} * 4 \text{ meetings/year}$) including an estimate for mileage.

The bill also requires the State Board of Elections to publish and distribute a voters' guide to each residence in the state before both the primary and general elections. Per the 2000 Census, there are 3.1 million households in the state. The Board estimates that it will cost them between \$750,000 and \$1,500,000 to produce and distribute the guide. This would include cost for printing which is estimated to be \$734,980 for three million copies of a 24-page guide as well as the cost for postage and for temporary help to prepare the guides for mailing or contracting with a mailing house. Because the estimate lacked sufficient detail, the Fiscal Research Division cannot determine the reasonableness of their estimate. However, based on information on the costs to other states to publish the guide, the Fiscal

Research Division estimates that the guide for each election can be published and distributed to each household for no more than \$750,000 for a total of not more than \$1.5 million every two years for the primary and general election guides. (The state of Washington publishes and distributes approximately three million copies of its 48-page guide for approximately \$740,000.)

In addition to the administrative cost discussed above, the Board may incur cost to hear any complaints that present themselves as a result of implementation of this bill. The Board estimates that, for each hearing held during a regularly scheduled meeting, it would incur \$650 (excluding the cost of staff-time) in administrative expenses for scheduling, sending certified or special delivery of notices or subpoenas, preparing the correspondence and case file, and the cost of a court reporter. Fiscal Research believes the number of additional complaints will be minimal and, therefore, has not included the cost of hearings in the fiscal impact.

The total cost to the State Board of Elections for administering the Judicial Campaign Reform Act is estimated to be \$37,200 nonrecurring for modifying the campaign reporting system (\$31,200) and start-up cost for additional accounting personnel (\$6,000) and \$56,619 recurring for the salary and benefits for the accounting personnel (\$51,619) and for the meetings of the Advisory Council (\$5,000). Though the bill is effective for the 2004 election of the Appellate Judiciary races, the Board is expected to determine the needs of the NC Public Campaign Financing Fund by August 1, 2003, and to report to the Joint Legislative Commission on Governmental Operations by October 1, 2003. The Fiscal Research Division estimates that the Board would begin to prepare for the 2004 election immediately and, thus, estimates that they would incur these expenditures beginning in Fiscal Year 2002-2003. Additionally, every even calendar year, the Board will incur approximately \$1.5 million for publishing and distributing a judicial voters' guide before both the primary and general elections. Because the primary election usually occurs in the fiscal year that ends on June 30 of the even year and the general election occurs in the subsequent fiscal year that begins on July 1 of that even year, the cost of the voter's guide will be spread over two fiscal years. Thus, each fiscal year the Board is expected to incur approximately \$750,000 to publish the voters' guide. Please note also that though our estimate is the same for each guide, the cost for the voters' guide for the general election is likely to be less than the cost of the guide for the primary because there will be fewer candidates for the general election.

Department of Revenue:

To comply with the directives of the legislation would require non-recurring funding to implement changes in several areas. An estimated \$178,600 is needed to make modifications to the Integrated Tax Administration System (ITAS) and to revise the individual income tax forms -- D400EZ and D400. On the processing side, the Department will have to make significant changes to the privilege license tax module for ITAS to be able to process a voluntary payment and split money into separate pots. The estimated non-recurring cost of these computer changes is \$137,600, which assumes contract programmer payments of \$80/hour and includes all costs for requirements, design, development, testing, and changes to notices. The form will have a line for the tax and a line for the contribution. If a return is filed indicating a contribution but the payment covers only the tax, the Department will apply the payment to tax and will not notify the taxpayer of any deficiency.

Also the additions to the forms required by this legislation will impact the Department's forms processing. To be able to capture the information, account for it, and report it accurately, the department estimates a cost of \$36,000. The last revision is the deletion of the Campaign Financing Fund check-off that will require \$5,000 of processing changes.

SOURCES OF DATA: State Board of Elections, Department of Revenue

TECHNICAL CONSIDERATIONS:

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DATE: September 25, 2002



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