

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 599

Short Title: Regulate Legal Assistance Funds. (Public)

Sponsors: Representatives Blust; Blackwood, Cleveland, Current, Dollar, Frye, Gillespie, Gulley, Hilton, Killian, McGee, Moore, Neumann, Samuelson, Setzer, Stam, Starnes, and West.

Referred to: Election Law and Campaign Finance Reform, if favorable, Judiciary I.

March 13, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE REPORTING OF LEGAL ASSISTANCE FUNDS OF
3 ELECTED OFFICERS AND TO REGULATE CONTRIBUTIONS TO SUCH
4 FUNDS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 6.(a)** Subchapter VIII of Chapter 163 is amended to add a new
7 Article to read:

"Article 22M.

"Legal Assistance Funds.

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10 **"§ 163-278.300. Definitions.**

11 As used in this Article, the following terms mean:

- 12 (1) Board. – The State Board of Elections.
13 (2) Contribution. – As defined in G.S. 163-278.6.
14 (3) Elected officer. – Any individual holding elected office in this State.
15 (4) Legal assistance fund. – Any collection of money for the purpose of
16 funding a legal action, or a potential legal action, taken by or against
17 an elected officer in that elected officer's official capacity.
18 (5) Person. – An individual.
19 (6) Treasurer. – An individual appointed by an elected officer or other
20 person or group of persons collecting money for a legal assistance
21 fund.

22 **"§ 163-278.301. Creation of legal assistance funds.**

23 (a) An elected official, or another person or group of persons on the elected
24 official's behalf, may create a legal assistance fund.

25 (b) If a legal assistance fund is created, the legal assistance fund shall comply
26 with all provisions of this Article.

27 (c) A violation of this Article shall be punishable as a Class 2 misdemeanor.

1 **"§ 163-278.302. Appointment of treasurer.**

2 (a) Each legal assistance fund shall appoint a treasurer and, under verification,
3 report the name and address of the treasurer to the Board.

4 (b) Each appointed treasurer shall file with the Board at the time required by
5 G.S. 163-278.9(a)(1) a statement of organization that includes the following:

6 (1) The name, address, and purpose of the legal assistance fund.

7 (2) The names, addresses, and relationships of affiliated or connected
8 elected officials, candidates, political committees, referendum
9 committees, political parties, or similar organizations.

10 (3) The name, address, and position with the legal assistance fund of the
11 custodian of books and accounts.

12 (4) A listing of all banks, safety deposit boxes, or other depositories used,
13 including the names and numbers of all accounts maintained and the
14 numbers of all such safety deposit boxes used, provided that the Board
15 shall keep any account number required by this Article confidential
16 except as necessary to conduct an audit or investigation, except as
17 required by a court of competent jurisdiction, or unless confidentiality
18 is waived by the treasurer. Disclosure of an account number in
19 violation of this subdivision shall not give rise to a civil cause of
20 action. This limitation of liability does not apply to the disclosure of
21 account numbers in violation of this subdivision as a result of gross
22 negligence, wanton conduct, or intentional wrongdoing that would
23 otherwise be actionable.

24 (5) The name or names and address or addresses of any assistant treasurers
25 appointed by the treasurer. Such assistant treasurers shall be authorized
26 to act in the name of the treasurer, who shall be fully responsible for
27 any act or acts committed by an assistant treasurer, and the treasurer
28 shall be fully liable for any violation of this Article committed by any
29 assistant treasurer.

30 (6) Any other information which might be requested by the Board that
31 deals with the legal assistance fund organization.

32 (c) Any change in information previously submitted in a statement of
33 organization shall be reported to the Board within 10 calendar days following the
34 change.

35 (d) A legal assistance fund may remove its treasurer. In case of the death,
36 resignation, or removal of its treasurer before compliance with all obligations of a
37 treasurer under this Article, such legal assistance fund shall appoint a successor within
38 10 calendar days of the vacancy of such office and certify the name and address of the
39 successor in the manner provided in the case of an original appointment.

40 (e) Every treasurer of a legal assistance fund shall receive training from the
41 Board as to the duties of the office.

42 **"§ 163-278.303. Detailed accounts to be kept by political treasurers.**

43 (a) The treasurer of each legal assistance fund shall keep detailed accounts,
44 current within not more than seven days after the date of receiving a contribution or

1 making an expenditure, of all contributions received and all expenditures made by or on
2 behalf of the legal assistance fund.

3 (b) Accounts kept by the treasurer of a legal assistance fund or the accounts of a
4 treasurer or legal assistance fund at any bank or other depository may be inspected by a
5 member, designee, agent, attorney, or employee of the Board who is making an
6 investigation pursuant to G.S. 163-278.22.

7 (c) A treasurer shall not be required to report the name of any individual who is a
8 resident of this State who makes a total contribution of fifty dollars (\$50.00) or less but
9 shall instead report the fact that the treasurer has received a total contribution of fifty
10 dollars (\$50.00) or less, the amount of the contribution, and the date of receipt. If a
11 treasurer receives contributions of fifty dollars (\$50.00) or less, each at a single event,
12 the treasurer may account for and report the total amount received at that event, the date
13 and place of the event, the nature of the event, and the approximate number of people at
14 the event.

15 (d) With respect to the proceeds of sale of services, campaign literature and
16 materials, wearing apparel, tickets or admission prices to campaign events such as
17 rallies or dinners, and the proceeds of sale of any legal assistance fund related services
18 or goods, if the price or value received for any single service or goods exceeds fifty
19 dollars (\$50.00), the treasurer shall account for and report the name of the individual
20 paying for such services or goods, the amount received, and the date of receipt. If the
21 price or value received for any single service or item of goods does not exceed fifty
22 dollars (\$50.00), the treasurer may report only those services or goods rendered or sold
23 at a value that does not exceed fifty dollars (\$50.00), the nature of the services or goods,
24 the amount received in the aggregate for the services or goods, and the date of the
25 receipt.

26 (e) All expenditures for media expenses shall be made by a verifiable form of
27 payment. The Board shall prescribe methods to ensure an audit trail for every
28 expenditure so that the identity of each payee can be determined. All media
29 expenditures in any amount shall be accounted for and reported individually and
30 separately.

31 (f) All expenditures for nonmedia expenses (except postage) of more than fifty
32 dollars (\$50.00) shall be made by a verifiable form of payment. The Board shall
33 prescribe methods to ensure an audit trail for every expenditure so that the identity of
34 each payee can be determined. All expenditures for nonmedia expenses of fifty dollars
35 (\$50.00) or less may be made by check or by cash payment. All nonmedia expenditures
36 of more than fifty dollars (\$50.00) shall be accounted for and reported individually and
37 separately, but expenditures of fifty dollars (\$50.00) or less may be accounted for and
38 reported in an aggregated amount, but in that case the treasurer shall account for and
39 report that the treasurer made expenditures of fifty dollars (\$50.00) or less each, the
40 amounts, dates, and the purposes for which made. In the case of a nonmedia expenditure
41 required to be accounted for individually and separately by this subsection, if the
42 expenditure was to an individual, the report shall list the name and address of the
43 individual.

1 (g) All proceeds from loans shall be recorded separately with a detailed analysis
2 reflecting the amount of the loan, the source, the period, the rate of interest, and the
3 security pledged, if any, and all makers and endorsers.

4 **"§ 163-278.304. Statements filed with Board.**

5 (a) The treasurer of each legal assistance fund shall file with the Board under
6 certification of the treasurer as true and correct to the best of the knowledge of that
7 officer the following reports:

8 (1) Organizational report. – The appointment of the treasurer as required
9 by G.S. 163-278.302(a), the statement of organization required by
10 G.S. 163-278.302(b), and a report of all contributions and expenditures
11 not previously reported.

12 (2) Quarterly reports. – The treasurer shall file a report by mailing or
13 otherwise delivering it to the Board no later than seven working days
14 after the end of each calendar quarter covering the prior calendar
15 quarter.

16 (b) Any report or attachment filed under this section must be certified.

17 (c) Treasurers shall electronically file each report required by this section that
18 shows a cumulative total for the election cycle in excess of five thousand dollars
19 (\$5,000) in contributions, in expenditures, or in loans, according to rules adopted by the
20 Board. The Board shall provide the software necessary to file an electronic report to a
21 treasurer required to file an electronic report at no cost to the treasurer.

22 **"§§ 163-278.305 through 163-278.309: Reserved for future codification purposes.**

23 **"§ 163-278.310. Limitation on contributions.**

24 No legal assistance fund or its treasurer shall accept any contribution made by any
25 corporation, labor union, insurance company, professional association, or other business
26 entity, regardless of whether such corporation does business in the State of North
27 Carolina. This section does not apply with regard to entities permitted to make
28 contributions by G.S. 163-278.19(f). Contributions shall be limited to four thousand
29 dollars (\$4,000) per contributor per year.

30 **"§§ 163-278.311 through 163-278.315: Reserved for future codification purposes.**

31 **"§ 163-278.316. Permitted uses of legal assistance funds.**

32 A legal assistance fund may be used for reasonable expenses actually incurred by the
33 elected official in relation to a legal action or potential legal action brought by or against
34 the elected official. Upon completion of the legal action or potential legal action, the
35 remaining monies in the legal assistance fund shall be distributed to either the Indigent
36 Persons' Attorney Fee Fund or to the North Carolina State Bar for the provision of civil
37 legal services for indigents.

38 **"§§ 163-278.317 through 163-278.320: Reserved for future codification purposes."**

39 **SECTION 2.** G.S. 163-278.36 is repealed.

40 **SECTION 3.** Section 1 of this act becomes effective January 1, 2008. The
41 remainder of this act is effective when it becomes law.