

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 725

Short Title: Campaign Finance Reform. (Public)

Sponsors: Senators Hise, Goolsby; Brock, Hunt, and Rouzer.

Referred to: Judiciary I.

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO THE CAMPAIGN FINANCE LAW.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 163-277 reads as rewritten:

5 "**§ 163-277. Compelling self-incriminating testimony; person so testifying excused from**
6 **prosecution testimony.**

7 No person shall be excused from attending or testifying or producing any books, papers or
8 other documents before any court or magistrate upon any investigation, proceeding or trial for
9 the violation of any of the provisions of this Article, upon the ground or for the reason that the
10 testimony or evidence, documentary or otherwise, required of ~~him~~ that person may tend to
11 incriminate or degrade ~~him, that person, but such~~ Such person may be subpoenaed and required
12 to testify by and for the State relative to any offense arising under the provisions of this ~~Article;~~
13 ~~Article, but such person shall not be prosecuted or subjected to any penalty or forfeiture for or~~
14 ~~on account of any transaction, matter or thing concerning which he may so testify or produce~~
15 ~~evidence, documentary or otherwise, and no testimony so given or produced shall be used~~
16 ~~against him upon any criminal investigation or proceeding, but such person so compelled to~~
17 ~~testify with respect to any acts of his own shall be immune from prosecution on account~~
18 ~~thereof, and shall be pardoned for any violation of law about which such person shall be so~~
19 ~~required to testify."~~

20 SECTION 2. G.S. 163-278.19B reads as rewritten:

21 "**§ 163-278.19B. Political party headquarters building funds.**

22 Notwithstanding the provisions of G.S. 163-278.19, a person prohibited by that section
23 from making a contribution may donate to political ~~parties~~ parties, and political parties may
24 accept from such a ~~person~~ person, money and other things of value donated to a political party
25 headquarters ~~building~~ fund. Donations to the political party headquarters ~~building~~ fund shall be
26 subject to all the following rules:

- 27 (1) The donations solicited and accepted are designated to the political party
28 headquarters ~~building~~ fund.
- 29 (2) Potential donors to that fund are advised that all donations will be
30 exclusively for the political party headquarters ~~building~~ fund.
- 31 (3) The political party establishes a separate segregated bank account into which
32 shall be deposited only donations for the political party headquarters
33 ~~building~~ fund from persons prohibited by G.S. 163-278.19 from making
34 contributions.
- 35 (4) The donations deposited in the separate segregated bank account for the
36 political party headquarters ~~building~~ fund will be spent only ~~to purchase a~~
37 ~~headquarters building, to construct a headquarters building, to renovate a~~



1 ~~headquarters building, to pay a mortgage on a headquarters building, or to~~
2 ~~repay donors if a headquarters building is not purchased, constructed, or~~
3 ~~renovated. Donations deposited into that account shall not be used for~~
4 ~~headquarters rent, utilities, or equipment other than fixtures for liabilities of~~
5 the political party. For purposes of this subdivision, liabilities of the political
6 party shall not include salaries of staff employed by the political party,
7 electioneering communications, independent expenditures, contributions, or
8 get-out-the-vote efforts.

- 9 (5) The political party executive committee shall report donations to and
10 spending by a political party headquarters ~~building~~ fund on every report
11 required to be made by G.S. 163-278.9. If a committee is excused from
12 making general campaign finance reports under G.S. 163-278.10A, that
13 committee shall nonetheless report donations in any amount to and spending
14 in any amount by the political party headquarters ~~building~~ fund at the times
15 required for reports in G.S. 163-278.9.

16 If all the criteria set forth in subdivisions (1) through (5) of this section are complied with, then
17 donations to and spending by a political party headquarters ~~building~~ fund do not constitute
18 contributions or expenditures as defined in G.S. 163-278.6. If those criteria are complied with,
19 then donations may be made to a political party headquarters ~~building~~ fund."

20 **SECTION 3.** G.S. 163-278.34 reads as rewritten:

21 "**§ 163-278.34. Civil penalties.**

22 (a) Civil Penalties for Late Filing. – Except as provided in G.S. 163-278.9 and
23 G.S. 163-278.9A, all reports, statements or other documents required by this Article to be filed
24 with the Board shall be filed either by manual delivery to or by mail addressed to the Board.
25 Timely filing shall be complete if postmarked on the day the reports, statements or other
26 documents are to be delivered to the Board. If a report, statement or other document is not filed
27 within the time required by this Article, then the individual, person, media, candidate, political
28 committee, referendum committee or treasurer responsible for filing shall pay to the State
29 Board of Elections election enforcement costs and a civil late penalty as follows:

- 30 (1) Two hundred fifty dollars (\$250.00) per day for each day the filing is late for
31 a report that affects statewide elections, not to exceed a total of ten thousand
32 dollars (\$10,000); and
33 (2) Fifty dollars (\$50.00) per day for each day the filing is late for a report that
34 affects only nonstatewide elections, not to exceed a total of five hundred
35 dollars (\$500.00).

36 If the form is filed by mail, no civil late penalty shall be assessed for any day after the date
37 of postmark. No civil late penalty shall be assessed for any day when the Board office at which
38 the report is due is closed. The State Board shall immediately notify, or cause to be notified,
39 late filers, from which reports are apparently due, by mail, of the penalties under this section.
40 The State Board of Elections may waive a late penalty if it determines there is good cause for
41 the waiver.

42 If the Board determines by clear and convincing evidence that the late filing constitutes a
43 willful attempt to conceal contributions or expenditures, the Board may assess a civil penalty in
44 an amount to be determined by that Board, plus the costs of investigation, assessment, and
45 collection. The civil penalty shall not exceed three times the amount of the contributions and
46 expenditures willfully attempted to be concealed.

47 (b) Civil Penalties for Illegal Contributions and Expenditures. – If an individual, person,
48 political committee, referendum committee, candidate, or other entity intentionally makes or
49 accepts a contribution or makes an unlawful expenditure in violation of this Article, then that
50 entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a
51 civil penalty and the costs of investigation, assessment, and collection. The civil penalty shall

1 not exceed three times the amount of the unlawful contribution or expenditure involved in the
2 violation. The State Board of Elections may, in addition to the civil penalty, order that the
3 amount unlawfully received be paid to the State Board by check, and any money so received by
4 the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

5 (c) Civil Remedies Other Than Penalties. – The State Board of Elections, in lieu of or
6 in addition to imposing a civil penalty under subsection (a) or (b) of this section, may take one
7 or more of the following actions with respect to a violation for which a civil penalty could be
8 imposed:

- 9 (1) Issue an order requiring the violator to cease and desist from the violation
10 found.
- 11 (2) Issue an order to cease receiving contributions and making expenditures
12 until a delinquent report has been filed and any civil penalty satisfied.
- 13 (3) Issue an order requiring the violator to take any remedial action deemed
14 appropriate by the Board.
- 15 (4) Issue an order requiring the violator to file any report, statement, or other
16 information as required by this Article or the rules adopted by the Board.
- 17 (5) Publicly reprimand the violator for the violation.

18 (d) Facts in Mitigation. – An individual or other entity notified that a penalty has been
19 assessed against it may submit an affidavit to the State Board of Elections stating the facts in
20 mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it
21 determines there is good cause for the waiver.

22 (e) Calculation and Assessment. – The State Board shall calculate and assess the
23 amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the
24 person who is assessed the civil penalty of the amount. The notice of assessment shall be
25 served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to
26 pay the assessment or to contest the assessment within 30 days by filing a petition for a
27 contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not
28 pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request
29 the Attorney General to institute a civil action to recover the amount of the assessment. The
30 civil action may be brought in the superior court of any county where the report was due to be
31 filed or any county where the violator resides or maintains an office. A civil action must be
32 filed within three years of the date the assessment was due. An assessment that is not contested
33 is due when the violator is served with a notice of assessment. An assessment that is contested
34 is due at the conclusion of the administrative and judicial review of the assessment. The State
35 Board of Elections shall pay the clear proceeds of civil penalties collected under this section to
36 the Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of
37 Elections shall reduce the monies collected by the enforcement costs and the collection costs to
38 determine the clear proceeds payable to the Civil Penalty and Forfeiture Fund. Monies set aside
39 for the costs of enforcement and the costs of collection shall be credited to accounts of the State
40 Board of Elections.

41 (e1) A candidate shall be jointly and severally liable for any civil penalty assessed by the
42 State Board against a candidate campaign committee if the candidate campaign committee
43 organized by the candidate has no moneys with which to pay the assessed civil penalty. As
44 used in this subsection, the term "candidate campaign committee" means the same as in
45 G.S. 163-278.38Z(3).

46 (f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty
47 under subsection (b) of this section or imposing a civil remedy under subsection (c) of this
48 section, the State Board of Elections shall notify and consult with the district attorney who
49 would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the
50 violation."

51 **SECTION 4.** G.S. 163-278.35 reads as rewritten:

1 **"§ 163-278.35. Preservation of records.**

2 All reports, records and accounts required by this Article to be made, kept, filed, or
3 maintained by any individual, media, candidate or treasurer shall be preserved and retained by
4 the individual, media, candidate or treasurer for at least two years counting from the date of the
5 ~~election~~the last report due to be filed with the appropriate board of elections to which such
6 reports, records and accounts refer. All reports, records, and accounts include any underlying
7 documentation upon which the information in the last report due to be filed with the
8 appropriate board of elections is based."

9 **SECTION 5.** G.S. 163-278.13(e3) is repealed.

10 **SECTION 6.** This act becomes effective January 1, 2012, and applies to elections
11 held on or after that date.