

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1764 (First Edition)

SHORT TITLE: Public Campaign Fund Amendments.

SPONSOR(S): Representative Culpepper

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
REVENUES					
NC Public Campaign Fund					
NC State Bar Attorney Surcharge	\$1,024,150	\$1,060,000	\$1,097,100	\$1,135,500	\$1,175,250
General Fund					
Department of Revenue	\$600,000	\$600,000	\$600,000	\$600,000	\$600,000
EXPENDITURES					
NC Public Campaign Fund					
State Board of Elections	\$0	\$0	\$0	\$0	\$0
Department of Revenue	\$0	\$0	\$0	\$0	\$0
POSITIONS: (cumulative)	0				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: State Board of Elections and Department of Revenue					
EFFECTIVE DATE: Sections 1, 2 and 3 of the bill (imposition of an attorney fee surcharge of \$50) are effective January 1, 2005. The remainder of the bill is effective when it becomes law.					

BILL SUMMARY: This bill amends Article 22D of Chapter 163 of the General Statutes which established the North Carolina Public Campaign Financing Fund. Sections 1, 3 and 6 of this bill change the funding mechanisms for the Fund by establishing a surcharge on membership fees for attorneys, removing the Attorney Privilege License Tax as a mechanism for collecting donations to the Fund, and allocating fifty cents per each taxpayer who neither agrees nor objects to designating three dollars for the Fund to support publication of a judicial voter guide. Section 4 of the bill allows the State Board of Elections to administer the Fund out of other monies available to it; Section 5 allows certified candidates to raise funds privately if public funds are insufficient; Sections 8, 9, and 11 provide that the Fund is not available to candidates in plurality elections under G.S. 163-329; Section 13 alters the trigger for the rescue funds; Section 14 provides that Advisory Council terms end December 31; Section 7 changes the name of the Fund to “North Carolina Public Campaign Fund;” and Section 15 sets the limit of the candidates’ statement for the Judicial Voter Guide at 200 words. Section 10 enacts a new 163-278.64(f) limiting candidates to one Fund disbursement per year. This bill also makes technical corrections to Article 22D or the Judicial Campaign Reform Act of 2002.

Source: Adapted from Bill Digest H.B. 1764 (05/31/2004)

ASSUMPTIONS AND METHODOLOGY:

Estimates are presented below relative to the fiscal impact of the proposed legislation for Sections 1, 6, and 13.

Attorney Surcharge:

Section 1 of HB 1764 provides that every active member of the North Carolina State Bar (State Bar) pay a fifty dollar (\$50) surcharge before July 1 annually to help finance the North Carolina Public Campaign Fund (Fund). The State Bar is responsible for collecting the annual membership fees and the proposed \$50 surcharge. The State Bar mails invoices to State Bar members by December 1 of each year for the subsequent calendar year’s dues. Members are to remit their payments by June 30 of the calendar year they are owed. For example, the State Bar mailed 19,790 invoices by December 2003 to its members (attorneys) for calendar year 2004 dues to be paid by June 30, 2004. Based on its historical experience, the State Bar estimates that its membership will increase between three and one-half percent (3-½ %) to four (4%) annually. Fiscal Research uses the conservative membership growth estimate of 3-½ % in the table below for calculating the \$50 surcharge remittances.

FY	2004-05	2005-06	2006-07	2007-08	2008-09
Number of NC State Bar Members	20,483	21,200	21,942	22,710	23,505
Surcharge Total	\$1,024,150	\$1,060,000	\$1,097,100	\$1,135,500	\$1,175,250

Section 1 also directs the State Bar to remit the surcharges received on a monthly basis to the State Board of Elections (State Board). The majority of State Bar members pay their annual dues during June. Therefore, Fiscal Research assumes the State Bar would remit the majority surcharges from the State Bar members to the State Board beginning June 2005. The funds would be available for use for public campaign financing during a May 2006 primary election.

Department of Revenue:

Section 6 of the bill rewrites G.S. 105-159.2 (a) by adding language that a taxpayer filing either as an individual or as individuals under the married couple status must be given the opportunity to indicate objection, as well as agreement, to the allocation of three dollars of the individual taxpayer's tax liability to the North Carolina Public Campaign Fund per G.S. 105-159.2(b). When the taxpayer does not indicate a choice, neither agreeing nor objecting, the Department must credit to the Fund the equivalent of fifty cents for each taxpayer with a tax liability. The Department must credit the proceeds allocated to the Fund on a monthly basis, and are to be used to help pay for voter education and administrative expenses authorized by Article 22D of Chapter 163. Information from the Department indicates 1.2 million of the 2003 tax returns had a blank check-off for the Judicial Campaign Fund. If that rate of non-response continues, there would be \$600,000 of revenue available to the Fund each year. To implement the new requirement the Department indicates there are no additional administrative or technology (ITAS) costs.

State Board of Elections:

Section 13 of the bill rewrites G.S. 163-278.66 by altering the trigger of the rescue funds for certified candidates of the Fund. For Section 13 the State Board indicates software modifications would be required to its existing campaign reporting system. The State Board informed Fiscal Research that the software modifications for implementing HB 1764 would cost \$16,800 (280 programming hours * \$60 per hour). However, the State Board did not indicate what in the section would require additional software modifications beyond those that were required to implement the public campaign finance law as codified in Article 22D of Chapter 163 of the General Statutes by SB 1054 (Session Law 2002-158). Therefore, we do not find a basis for including additional cost to the State Board to implement HB 1764. We note, however, that the State Board has not implemented changes that were required by SB 1054. Thus, any cost incurred would be to implement those changes. Under current law, the cost of administering Article 22D, including software modifications, is to be paid from the NC Public Campaign Financing Fund.

The State Board did not indicate fiscal impact to its operations to implement Section 4, which allows the State Board to administer the Fund from other money sources, and Section 6, which provides a new allocation of money to help pay for voter education and the Fund's administration expenses.

TECHNICAL CONSIDERATIONS:

State Board of Elections:

The underscored language in Section 4 appears to be surplusage. Currently, the State Board of Elections is supported by an appropriation from the General Fund. In accordance with the Executive Budget Act, funds appropriated from the General Fund must be spent in accordance with the line item budget enacted by the General Assembly. Funds appropriated to the State Board cannot be used for administering Article 22D unless so appropriated. Any funds received for the Public Campaign Fund would be deposited as per G.S. 163-278.63(b). Other funds received by the State Board must be used for their intended purpose and not to administer Article 22D. Thus, the underscored language appears to have no effect.

Department of Revenue:

The Department has raised an issue in regards to the proposed legislation that addresses the effective date of Section 6, which is effective when the bill becomes law. For administrative purposes, the Department suggests changing the effective date to coincide with returns filed for tax years beginning on or after January 1, 2004. With this change returns filed immediately after enactment would be subject to the 50 cents' requirement. The Department will need time to do programming to implement the change. There remains no cost to re-program the system.

SOURCES OF DATA: State Board of Elections, Department of Revenue, and NC State Bar

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DATE: July 14, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices