



STATE BOARD OF ELECTIONS

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GARY O. BARTLETT
Executive Director

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P.O. BOX 27255
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October 21, 2011

Mr. Carlos E. Vidales
P.O. Box 80423
Raleigh, North Carolina 27623

Re: Request for expedited opinion regarding whether November 8 municipal runoff is a "new election" for campaign finance purposes

Dear Mr. Vidales:

I am in receipt of your October 18, 2011, request for an advisory opinion pursuant to N. C. Gen. Stat. § 163-278.23, Article 22, in which you seek clarification as to whether a candidate involved in the November 8, 2011 runoff election may receive \$4,000 for that election in addition to the \$4,000 received for the October 11, 2011 election.

N.C. Gen. Stat. § 163-278.13(a) provides: "No individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of four thousand dollars (\$4,000) for that election." The term "election" is defined for purposes of this statute in N.C. Gen. Stat. § 163-278.13(d) as "any primary, second primary, or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the election, except that where a candidate is not on the ballot in a second primary, that second primary is not 'an election' with respect to that candidate." The term "election" is also defined in N.C. Gen. Stat. § 163-278.6(8) as "any general or special election, a first or second primary, a run-off election, or an election to fill a vacancy." Note that "runoff election" is included in this definition, but is not included in the definition specific to contribution limitations.

However, N. C. Gen. Stat. § 163-298 provides in pertinent part: "The words 'general election,' as used in this Article [24], shall include regular municipal elections, runoff elections, and nonpartisan primaries, except where specific provision is made for municipal elections and nonpartisan primaries." N. C. Gen. Stat. § 163-293(e), which also in Article 24, provides in pertinent part: "Persons whose registrations become valid between the date of the first election and the runoff election shall be entitled to vote in the runoff election, but in all other respects the runoff election shall be held under the laws, rules, and regulations provided for the first election."

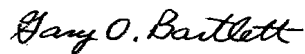
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A logical interpretation of these seemingly contrary provisions is that a runoff election is the same as a general election except where specifically noted. Given that N.C. Gen. Stat. § 163-278.13(d) does not refer to a "runoff election," and the fact that elsewhere the term "general election" is defined to encompass a "runoff election," we infer that "runoff election" is included in the term "general election" in N. C. Gen. Stat. § 163-278.13(d) as well. Therefore a candidate in a runoff election, for purposes of campaign contribution limits, treats this as a "new election."

This opinion is based upon the information provided in your October 18, 2011, request for advisory opinion. If any information in that request should change, you should consult with our office to ensure that this opinion would still be binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

If you have any further questions, please contact me or Kim Strach, Deputy Director-Campaign Finance.

Sincerely,



Gary O. Bartlett
Executive Director

cc: Julian Mann, Codifier of Rules