

HOUSE BILL REPORT

HB 1485

As Reported by House Committee On:
Judiciary

Title: An act relating to charitable solicitations.

Brief Description: Regarding charitable solicitations.

Sponsors: Representatives Rodne, Kirby, Pedersen, Johnson and Kelley; by request of Secretary of State.

Brief History:

Committee Activity:

Judiciary: 2/2/11, 2/3/11, 2/10/11 [DPS].

Brief Summary of Substitute Bill

- Makes various changes to the Charitable Solicitations Act, including re-organizing sections for clarity, providing definitions, specifying registration requirements, authorizing the Office of the Secretary of State to send notices electronically, and other clarifying amendments.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Trudes Tango (786-7384).

Background:

Under the Charitable Solicitations Act (CSA), charitable organizations and commercial fund raisers that solicit contributions from the public must first register with the Office of the Secretary of State (OSOS) before conducting any solicitations. Registration under the CSA is effective for one year or longer, as established by the OSOS. The Secretary of the OSOS (Secretary) must send notices to renew registrations to the entities by mail.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Certain entities are not considered charitable organizations, such as churches, political organizations, and entities that are strictly volunteer-run and raise less than \$25,000 in any accounting year. However, those exempt entities must still comply with certain requirements when making charitable solicitations.

The CSA includes disclosure requirements and prohibits certain kinds of representations during solicitations. The OSOS makes certain information, such as financial disclosures, about charitable organizations available to the public. The Secretary is authorized to establish a tiered requirement for financial reporting, based on the revenues of the charitable organization.

The CSA provides additional requirements for commercial fundraisers, which are entities that are paid to solicit funds on behalf of a charity. Certain commercial fundraisers must execute surety bonds equal to no less than \$15,000. The Secretary may, by rule, provide for the reduction and reinstatement of the bond required. Commercial fundraisers may subcontract with another commercial fundraiser that will be compensated for assuming some or all of the primary commercial fundraiser's obligations, specifically with regards to solicitations. The primary commercial fundraiser must register with the OSOS and must disclose the name of the subcontracting entity that will receive more than 10 percent of the total anticipated fundraising costs.

Summary of Substitute Bill:

Various sections of the CSA are reorganized for clarity and ease of reading. Certain terms are changed to be consistent with how those terms are used in other parts of the CSA, and a variety of other amendments are made.

Regarding registration and disclosure of reports, an entity is considered registered 20 days after receipt of the registration form, and at that time the entity may commence soliciting contributions from the public. Charitable organizations that are required to file certain federal tax forms do not have to file a copy of the tax form with the OSOS if the form is available for public inspection under federal tax law. Commercial fundraisers must disclose whether it is using a subcontractor, regardless of whether the subcontractor is expected to receive a certain percentage of the anticipated fundraising costs. It is made explicit that Social Security numbers and financial account numbers are not public information.

The Secretary is given discretion to: (1) send renewal or other notices electronically; (2) set the principal amount of the surety bond required of certain commercial fundraisers; and (3) establish how long registrations are effective. In addition, the Secretary or the Attorney General may publish on the Internet, or publish a press release, notifying the public of an entity that is soliciting without registering as required.

An entity is prohibited from collecting on contributions in person unless: (1) the contributions are noncash items; (2) the solicitation for the contribution is made in person and the collection of the contribution is made at the same time as the solicitation; or (3) the

contributor has agreed to purchase goods in connection with the solicitation and the collection is made at the time the goods are delivered.

"Gross revenue" is defined and includes noncash contributions of tangible personal property.

Substitute Bill Compared to Original Bill:

The original bill provided that the Secretary may, but is no longer required to, publish the annual report showing each charity's percentage of funds actually spent on the organization's charitable purpose. The substitute bill removed the section making it discretionary and thereby restored current law.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is the product of careful conversations among various stakeholders. The OSOS worked with the Office of the Attorney General and the Washington State Bar Association to clarify areas of the law that were confusing to people. Charitable organizations are burdened by the various requirements and this bill removes some of those burdens. It removes duplicative filings of forms and makes the chapter easier to read. It streamlines registration and allows organizations to begin soliciting contributions sooner. It simplifies the reporting requirements and addresses privacy issues in filings. It also provides protection to the public by prohibiting in-person collections under certain situations. It is a follow up to the bill that passed a few years ago, and it includes various housekeeping of the statutes. The bill strengthens the law so that the public will have confidence in the law. It provides more transparency.

(Opposed) None.

Persons Testifying: Representative Rodne, prime sponsor; Pamela Floyd, Office of the Secretary of State; and Putnam Barber, Washington Nonprofits.

Persons Signed In To Testify But Not Testifying: None.