

HOUSE BILL REPORT

SHB 1777

As Amended by the Senate

Title: An act relating to charitable organizations that solicit contributions from the public.

Brief Description: Regulating charitable organizations that solicit contributions from the public.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Rodne, Lantz, Darneille, Kirby, Ahern, Ross, Flannigan, Moeller, Kenney and Morrell; by request of Secretary of State).

Brief History:

Committee Activity:

Judiciary: 2/9/07, 2/14/07 [DPS];

Appropriations: 2/21/07, 2/22/07 [DPS(JUDI)].

Floor Activity:

Passed House: 3/7/07, 96-1.

Senate Amended.

Passed Senate: 4/6/07, 45-0.

Brief Summary of Substitute Bill

- Makes technical, administrative, and definitional amendments to the Washington Charitable Solicitations Act (CSA).
- Gives new authority to the Office of the Secretary of State for administering the CSA.
- Creates funding for an educational program for charitable organizations.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Jasmine Vasavada (786-5793).

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.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Minority Report: Without recommendation. Signed by 1 member: Representative Dunn.

Staff: Owen Rowe (786-7391).

Background:

The Charitable Solicitations Act (CSA) requires charitable organizations and commercial fund raisers that solicit charitable donations from the general public to register with the Office of the Secretary of State. In addition, the CSA includes detailed disclosure requirements and prohibitions on certain kinds of representations. The Charities Program of the Office of the Secretary of State makes general information about charitable organizations available to the public.

A "charitable organization" is defined as one that solicits or collects contributions from the general public to support a charitable activity. "Charitable" activities expressly exclude political and religious activities. Religious activities are defined as religious, evangelical, or missionary activities under the direction of a religious organization that is duly organized and operating in good faith and tax exempt for religious purposes under federal law. The exemption extends to the branches and chapters of those organizations as well.

A commercial fund raiser is defined as any entity that is paid to solicit funds on behalf of a charity. Commercial fund raisers do not include an entity that provides advice or consultation to a charitable organization but neither solicits nor receives contributions on behalf of a charitable organization.

Summary of Substitute Bill:

The purpose of the Charitable Solicitations Act (CSA) is amended to include: (1) improving the transparency and accountability of organizations that solicit funds from the public, and (2) developing and operating educational programs to help build public confidence and trust in these organizations.

A number of statutory definitions are added or refined to clarify which entities are required to register:

- Churches and integrated auxiliaries are expressly exempted from the registration provisions of the CSA, but other religious organizations are not.

- Churches and integrated auxiliaries remain subject to prohibitions against false or misleading advertising.
- "Fund-raising counsel" and "commercial coventurers" are newly defined and exempted from the registration requirements of commercial fund raisers.
- The definition of "parent organization" is repealed, consolidated filings by umbrella organizations are no longer permitted, and individual foundations, supporting organizations, chapters, branches, or affiliates of a parent organization must each file individually.

Appeals for funds on behalf of a specific individual are newly exempted.

The process by which out-of-state charitable organizations may be exempted from state registration requirements is changed. Out-of-state organizations may be exempted if the Secretary of State (Secretary) enters into a reciprocity agreement with the organization's home state.

Requirements of a commercial fund raiser are changed. A commercial fund raiser must agree in its contract with a charitable organization to provide officers of the charity reasonable access to the names of all of the fund raisers' employees or staff who are conducting solicitations or fund-raising on behalf of the charitable organizations. Commercial fund raisers are no longer required to submit lists of states and provinces other than Washington where fund-raising has been performed.

A charitable organization must ensure that its board has reviewed and accepted any financial report that the organization is required to file with the Office of the Secretary of State. Charitable organizations may be subject to civil fines if there is a material error in the financial information filed. A charitable organization or commercial fund raiser must notify the Office of the Secretary of State within 30 days if there is a change in information reported in a solicitation report. Charitable organizations must also provide notice if a change has occurred in the total revenue of the preceding year.

The Secretary is given new authority in four areas: (1) the creation of an advisory council; (2) the development and operation of an educational program, funded by additional fees; (3) the establishment of a tiered financial reporting system; and (4) the ability to enter into reciprocity agreements with other states.

The Secretary may create a charitable advisory council, including representatives from a broad range of charities, to provide advice related to training and educational needs of charitable organizations, and help develop model policies related to governance and administration.

The Secretary is authorized to work with the state Attorney General to develop and operate an education program for charitable organizations, their board members, and the general public. To fund this program, the Secretary may establish additional registration fees for entities required to file under the CSA. The fees must be deposited into a new dedicated account in the State Treasury, the "Charitable Organization Education Account" (Account). Only the Secretary or his or her designee may authorize expenditures from the Account.

The Secretary may establish tiered requirements for financial reporting, based on the revenues of the charitable organization. If a tiered system is adopted, organizations with revenues exceeding an average of \$3 million for the preceding three years would be required to submit an audited financial statement with their filings. Those with revenues exceeding an average of \$1 million for the preceding three years would be required to have federal financial reporting forms completed or reviewed by a third party.

The Secretary may enter into reciprocal agreements with other states for the purpose of exchanging information about charitable organizations and commercial fund raisers. If such a reciprocal agreement is created, the Secretary may exempt a charitable organization from the requirement to register in Washington, if the organization is: (1) organized under the laws of another state; (2) has its principal place of business outside of Washington and funds derived principally from sources outside Washington; and (3) is exempt under the laws of the state in which it is principally located. The Secretary may also accept information filed by a charitable organization or commercial fund raiser with another state if it is substantially similar to that required under the CSA.

A number of technical changes help streamline reporting of financial information. In addition, no entity may place a telephone call to a donor or potential donor before 8 a.m. or after 9 p.m. Pacific Time. Formerly, no calls could be placed to an individual who would receive the call before 8 a.m. or after 9 p.m.

EFFECT OF SENATE AMENDMENT(S):

Provides that expenditures from the education account created by the act are subject to appropriation rather than allowing expenditure without appropriation, and puts any interest earned by the account into the general fund rather than back into the account.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony: (Judiciary)

(In support) This bill reflects the hard work of a coalition with grassroots involvement. The educational component of the bill is particularly important, since lack of education is the main reason charities run into enforcement trouble. Much misinformation is reported in financial documents by charities but this is seldom willful. Only 11 to 14 percent of the public believes nonprofits can manage their funds well. As a sector, nonprofits must be more accountable to their communities. The bill also enhances transparency in reporting, which is important to grantors. The advisory council authorized by this bill to help shape policy would create a sustained relationship between nonprofits and governments, similar to programs that have been developed in Michigan and Ohio.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) The goal of this bill is to provide greater transparency and accountability from charitable organizations that solicit funding from the public. One of the key components of this bill is for the Secretary of State's Office to develop and implement an educational program to provide training and instruction to the boards of charitable organizations on what their fiduciary responsibilities and roles are. The Secretary of State's Office conducted an extensive stakeholder process throughout the state over several months and convened a task force to determine the substance of this bill. Charitable organization fees have not been raised in a long time, and stakeholders were supportive of the increase as long as the fees support the development and operation of the educational program. Churches and religious organizations are not subject to this bill, however the fundraisers they partner with are.

(Opposed) None.

Persons Testifying: (Judiciary) Representative Rodne, prime sponsor; Shane Hamlin, and Mike Ricchio, Office of the Secretary of State; Jeffrey Evan, Office of the Attorney General; Putnam Barber, Executive Alliance; Nancy Hales, The Community Foundation for Southwest Washington; and Liz Heath, The Nonprofit Center.

Persons Testifying: (Appropriations) (In support) Representative Rodne, prime sponsor; and Shane Hamlin, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying: (Judiciary) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.