WEST VIRGINIA LEGISLATURE

REGULAR SESSION. 1995

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ENROLLED

HOUSE BILL No. 2023

(By Delegates Jenkins, Amore, Kline)

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Passed ............................................. Feb. 17, 1995

In Effect 90 Days From Passage
AN ACT to amend and reenact section five, article nineteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the registration of charitable organizations with the office of the secretary of state; authorizing the secretary of state to extend the due date for the annual filing of a registration statement or report; imposing a late filing fee; setting forth limitations on such fee; and payment of late filing fee into charitable organization fund.

Be it enacted by the Legislature of West Virginia:

That section five, article nineteen, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 19. SOLICITATION OF CHARITABLE FUNDS ACT.

§29-19-5. Registration of charitable organizations; fee.

(a) Every charitable organization, except as provided in section six of this article, which intends to solicit contributions within this state or to have funds solicited on its behalf shall, prior to any solicitation, file a registration statement with the secretary of state upon forms prescribed by him or her, which shall be good for one full year and which shall be refiled in the next and each following year in which such charitable organization is engaged in
solicitation activities. If an organization discontinues solicitation at any time after its last registration filing, then it must file a registration statement reflecting its activities during its last fiscal year in which solicitation in West Virginia took place. It shall be the duty of the president, chairman or principal officer of such charitable organization to file the statements required under this article. Such statements shall be sworn to and shall contain the following information:

(1) The name of the organization and the purpose for which it was organized;

(2) The principal address of the organization and the address of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records;

(3) The names and addresses of any chapters, branches or affiliates in this state;

(4) The place where and the date when the organization was legally established, the form of its organization;

(5) The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer;

(6) A copy of a balance sheet and a statement or report of income and expenses for the organization's immediately preceding fiscal year, or a financial statement reporting information showing the kind and amount of funds raised during the preceding fiscal year, the costs and expenses incidental thereto and showing how the funds were disbursed or allocated for the same fiscal year: Provided, That for organizations raising more than fifty thousand dollars per year in contributions, the balance sheet and income and expense statement, or financial statement provided, shall be audited by an independent public accountant. Organizations are required to report the amount of money raised in the state and the amount spent in the state for charitable purposes;

(7) A copy of any determination of the organization's tax exempt status under the provisions of 26 U.S.C.
§501(c)(3) and a copy of the last filed Internal Revenue
Service form 990 and Schedule A for every charitable
organization and any parent organization;

(8) Whether the organization intends to solicit
contributions from the public directly or have such done
on its behalf by others;

(9) Whether the organization is authorized by any
other governmental authority to solicit contributions and
whether it is or has ever been enjoined by any court from
soliciting contributions;

(10) The general purpose or purposes for which the
contributions to be solicited shall be used;

(11) The name or names under which it intends to
solicit contributions;

(12) The names of the individuals or officers of the
organization who will have final responsibility for the
custody of the contributions;

(13) The names of the individuals or officers of the
organization responsible for the final distribution of the
contributions; and

(14) Copies of all contract documentation from
professional fund-raising counsels and professional
solicitors as provided for in subsection (d), section seven
of this article.

(b) Each chapter, branch or affiliate, except an
independent member agency of a federated fund-raising
organization, may separately report the information
required by this section, or report the information to its
parent organization which shall then furnish such
information as to its West Virginia affiliates, chapters and
branches in a consolidated form to the secretary of state.
An independent member agency of a federated fund-
raising organization, as hereinbefore defined, shall comply
with the provisions of this article independently. Each
organization shall file a separate registration form for each
name under which funds will be solicited.

(c) The registration forms and any other documents
prescribed by the secretary of state shall be signed by an
authorized officer or by an independent public accountant
and by the chief fiscal officer of the charitable organiz-
ation and shall be verified under oath.

(d) Every charitable organization collecting less than
one million dollars during any year which submits an
independent registration to the secretary of state shall pay
an annual registration fee of fifteen dollars; every
charitable organization collecting more than one million
dollars during one year which submits an independent
registration to the secretary of state shall pay an annual
registration fee of fifty dollars; a parent organization
filing on behalf of one or more chapters, branches or
affiliates or a single organization filing under different
names shall pay a single annual registration fee of fifty
dollars for itself and such chapters, branches or affiliates
included in the registration statement.

(e) For good cause shown, the secretary of state may
extend the due date for the annual filing of a registration
statement or report for a period not to exceed ninety days.
During such period, the previously filed registration
statement or report of the charitable organization which
has been granted the extension shall remain in effect.

(f) In addition to the registration fee required by this
section, a charitable organization which fails to file a
registration statement or report by the original or
extended due date therefor as required by this section
shall, for each month or part of the month thereafter in
which the same is not filed, pay an additional fee of
twenty-five dollars: Provided, That the total amount of
such additional fees for a registration statement or report
required to be filed in any one year shall not exceed five
hundred dollars. Any such additional fees received shall
be paid into the charitable organization fund established
pursuant to the provisions of section fifteen-b of this
article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the 14th day of May, 1995.

Governor