

HB 2023

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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



# ENROLLED

HOUSE BILL No. 2023

(By Delegates Jenkins, Amores & Kime)



Passed Feb. 17, 1995

In Effect 90 Days From Passage



ENROLLED

# H. B. 2023

(BY DELEGATES JENKINS, AMORES AND KIME)

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[Passed February 17, 1995; in effect ninety days from passage.]

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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.**

1 (a) Every charitable organization, except as provided  
2 in section six of this article, which intends to solicit  
3 contributions within this state or to have funds solicited on  
4 its behalf shall, prior to any solicitation, file a registration  
5 statement with the secretary of state upon forms prescribed  
6 by him or her, which shall be good for one full year and  
7 which shall be refiled in the next and each following year  
8 in which such charitable organization is engaged in

9 solicitation activities. If an organization discontinues  
10 solicitation at any time after its last registration filing, then  
11 it must file a registration statement reflecting its activities  
12 during its last fiscal year in which solicitation in West  
13 Virginia took place. It shall be the duty of the president,  
14 chairman or principal officer of such charitable  
15 organization to file the statements required under this  
16 article. Such statements shall be sworn to and shall  
17 contain the following information:

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

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

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

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

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

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

45 (7) A copy of any determination of the organization's  
46 tax exempt status under the provisions of 26 U.S.C.

47 §501(c)(3) and a copy of the last filed Internal Revenue  
48 Service form 990 and Schedule A for every charitable  
49 organization and any parent organization;

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

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

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

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

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

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

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

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

83 (c) The registration forms and any other documents

84 prescribed by the secretary of state shall be signed by an  
85 authorized officer or by an independent public accountant  
86 and by the chief fiscal officer of the charitable organiz-  
87 ation and shall be verified under oath.

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

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

107 (f) In addition to the registration fee required by this  
108 section, a charitable organization which fails to file a  
109 registration statement or report by the original or  
110 extended due date therefor as required by this section  
111 shall, for each month or part of the month thereafter in  
112 which the same is not filed, pay an additional fee of  
113 twenty-five dollars: *Provided*, That the total amount of  
114 such additional fees for a registration statement or report  
115 required to be filed in any one year shall not exceed five  
116 hundred dollars. Any such additional fees received shall  
117 be paid into the charitable organization fund established  
118 pursuant to the provisions of section fifteen-b of this  
119 article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bundy Schoonover

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Farrell Atkins  
Clerk of the Senate

Donald L. Kopp  
Clerk of the House of Delegates

Carl Ray Tomblin  
President of the Senate

Robert L. Clavin  
Speaker of the House of Delegates

The within was passed this the 14  
day of March, 1995.

Gaston Caperton  
Governor



PRESENTED TO THE

GOVERNOR

Date 2/24/95

Time 3:05 pm