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WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

REGULAR SESSION, 2015



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 351

(SENATOR FERNS, *ORIGINAL SPONSOR*)

[PASSED MARCH 6, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB351

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Senate Bill No. 351

(SENATOR FERNS, ORIGINAL SPONSOR)

[Passed March 6, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §29-19-5 of the Code of West Virginia, 1931, as amended, relating to contribution levels by charitable organizations necessary for submission of an audit report of the organization by an independent certified public accountant; and requiring additional information on registration statement.

Be it enacted by the Legislature of West Virginia:

That §29-19-5 of the Code of West Virginia, 1931, 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 in
- 2 section six of this article, which intends to solicit
- 3 contributions, donations or grants within this state or to have
- 4 funds solicited or received on its behalf shall, prior to any
- 5 solicitation, file a registration statement with the Secretary of

6 State upon forms prescribed by him or her which shall be
7 good for one full year and which shall be refilled in the next
8 and each following year in which the charitable organization
9 is engaged in solicitation activities. If an organization
10 discontinues solicitation at any time after its last registration
11 filing, then it shall file a registration statement reflecting its
12 activities during its last fiscal year in which solicitation in
13 West Virginia took place. The president, chairman or
14 principal officer of the charitable organization shall file the
15 statements required under this article. The statements shall be
16 sworn to and shall contain the following information:

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

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

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

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

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

29 (6) A copy of a balance sheet and a statement or report of
30 income and expenses for the organization's immediately
31 preceding fiscal year or a financial statement reporting
32 information showing the kind and amount of funds raised
33 during the preceding fiscal year, the costs and expenses
34 incidental to the fundraising and showing how the funds were
35 disbursed or allocated for the same fiscal year: *Provided,*

36 That in addition to the financial documents required by this
37 subdivision:

38 (A) Charitable organizations raising more than \$500,000
39 per year in contributions, excluding grants from
40 governmental agencies or private foundations, shall submit a
41 report of an audit by an independent certified public
42 accountant; and

43 (B) Charitable organizations raising more than \$200,000
44 per year, but less than \$500,000 per year in contributions,
45 excluding grants from governmental agencies or private
46 foundations, shall submit a statement of financial review by
47 an independent certified public accountant.

48 (7) A copy of any determination of the organization's tax
49 exempt status under the provisions of 26 U. S. C. §501(c)(3)
50 and a copy of the last filed Internal Revenue Service Form
51 990 and Schedule A for every charitable organization and
52 any parent organization;

53 (8) Whether the organization intends to solicit
54 contributions, donations or grants from the public directly or
55 have other solicitation done on its behalf by others;

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

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

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

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

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

70 (14) Copies of all contract documentation from
71 professional fund-raising counsels and professional solicitors
72 as provided in subsection (d), section seven of this article;
73 and

74 (15) The amount of money received in the state and the
75 amount spent in the state for charitable purposes.

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

88 (c) The registration forms and any other documents
89 prescribed by the Secretary of State shall be signed by an
90 authorized officer or by an independent public accountant
91 and by the chief fiscal officer of the charitable organization
92 and shall be verified under oath.

93 (d) Every charitable organization receiving less than \$1
94 million during any year which submits an independent

95 registration to the Secretary of State shall pay an annual
96 registration fee of \$15; every charitable organization
97 collecting more than \$1 million during one year which
98 submits an independent registration to the Secretary of State
99 shall pay an annual registration fee of \$50; and a parent
100 organization filing on behalf of one or more chapters,
101 branches or affiliates or a single organization filing under
102 different names shall pay a single annual registration fee of
103 \$50 for itself and the chapters, branches or affiliates included
104 in the registration statement. All fees and moneys collected
105 by the Secretary of State pursuant to the provisions of this
106 article shall be deposited by the Secretary of State as follows:
107 One-half shall be deposited in the State General Revenue
108 Fund and one-half shall be deposited in the services fees and
109 collections account established by section two, article one,
110 chapter fifty-nine of this code for the operation of the office
111 of the Secretary of State. The Secretary of State shall dedicate
112 sufficient resources from that fund or other funds to provide
113 the services required in this article.

114 (e) For good cause shown, the Secretary of State may
115 extend the due date for the annual filing of a registration
116 statement or report by a charitable organization or a
117 professional fundraiser for a period not to exceed ninety days.
118 During that period, the previously filed registration statement
119 or report of the charitable organization which has been
120 granted the extension remains in effect.

121 (f) In addition to the registration fee required by this
122 section, a charitable organization or professional fundraiser,
123 or both, which fails to file a registration statement or report
124 by the original or extended due date for filing as required by
125 this section shall, for each month or part of the month
126 thereafter in which the registration statement or report is not
127 filed, pay an additional fee of \$25: *Provided*, That the total
128 amount of the additional fees for a registration statement or

129 report required to be filed in any one year may not exceed
130 \$500. All fees and moneys collected by the Secretary of State
131 pursuant to the provisions of this article shall be deposited by
132 the Secretary of State as follows: One-half shall be deposited
133 in the State General Revenue Fund and one-half shall be
134 deposited in the service fees and collections account
135 established by section two, article one, chapter fifty-nine of
136 this code for the operation of the office of the Secretary of
137 State. The Secretary of State shall dedicate sufficient
138 resources from that fund or other funds to provide the
139 services required in this article.

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

Paul R. Marshall
.....
Chairman Senate Committee

John B. Heil
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark S. Barnes
.....
Clerk of the Senate

Scott J. Harris
.....
Clerk of the House of Delegates

Phillip D. Lee
.....
President of the Senate

Timothy C. Miller
.....
Speaker of the House of Delegates

The within *is approved* this the *11th*
Day of *March*, 2015.

Carl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 10 2015

Time 3:13PM