

**Senate Bill No. 154**

(By Senator Yost)

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[Introduced February 14, 2013; referred to the Committee on Government Organization; and then to the Committee on the Judiciary.]

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A BILL to amend and reenact §29-19-5 of the Code of West Virginia, 1931, as amended, relating to requirements for a charitable organization to submit an audit report or statement of financial review by an independent certified public accountant.

*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.**

(a) Every charitable organization, except as provided in section six of this article, which intends to solicit contributions, donations or grants within this state or to have

1 funds solicited or received on its behalf shall, prior to any  
2 solicitation, file a registration statement with the Secretary of  
3 State upon forms prescribed by him or her which shall be good for  
4 one full year and which shall be refiled in the next and each  
5 following year in which the charitable organization is engaged in  
6 solicitation activities. If an organization discontinues  
7 solicitation at any time after its last registration filing, then  
8 it shall file a registration statement reflecting its activities  
9 during its last fiscal year in which solicitation in West Virginia  
10 took place. It is the duty of the president, chairman or principal  
11 officer of the charitable organization to file the statements  
12 required under this article. The statements shall be sworn to and  
13 shall contain the following information:

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

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

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

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

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

3 (6) A copy of a balance sheet and a statement or report of  
4 income and expenses for the organization's immediately preceding  
5 fiscal year or a financial statement reporting information showing  
6 the kind and amount of funds raised during the preceding fiscal  
7 year, the costs and expenses incidental to the fundraising and  
8 showing how the funds were disbursed or allocated for the same  
9 fiscal year: *Provided*, That in addition to the financial documents  
10 required by this subdivision:

11 (A) Charitable organizations raising more than ~~\$200,000~~  
12 \$500,000 per year in contributions, excluding grants from  
13 governmental agencies or private foundations, shall submit a report  
14 of an audit by an independent certified public accountant; and

15 (B) Charitable organizations raising more than \$100,000 per  
16 year but less than ~~\$200,001~~ \$500,001 per year in contributions,  
17 excluding grants from governmental agencies or private foundations,  
18 shall submit a statement of financial review by an independent  
19 certified public accountant. Organizations are required to report  
20 the amount of money received in the state and the amount spent in  
21 the state for charitable purposes;

22 (7) A copy of any determination of the organization's tax  
23 exempt status under the provisions of 26 U.S.C. §501(c)(3) and a

1 copy of the last filed Internal Revenue Service Form 990 and  
2 Schedule A for every charitable organization and any parent  
3 organization;

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

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

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

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

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

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

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

1           (b) Each chapter, branch or affiliate, except an independent  
2 member agency of a federated fund-raising organization, may  
3 separately report the information required by this section or  
4 report the information to its parent organization which shall then  
5 furnish the information regarding its West Virginia affiliates,  
6 chapters and branches in a consolidated form to the Secretary of  
7 State. An independent member agency of a federated fund-raising  
8 organization, as defined in section two of this article, shall  
9 comply with the provisions of this article independently. Each  
10 organization shall file a separate registration form for each name  
11 under which funds will be solicited.

12           (c) The registration forms and any other documents prescribed  
13 by the Secretary of State shall be signed by an authorized officer  
14 or by an independent public accountant and by the chief fiscal  
15 officer of the charitable organization and shall be verified under  
16 oath.

17           (d) Every charitable organization receiving less than \$1  
18 million during any year which submits an independent registration  
19 to the Secretary of State shall pay an annual registration fee of  
20 \$15; every charitable organization collecting more than \$1 million  
21 during one year which submits an independent registration to the  
22 Secretary of State shall pay an annual registration fee of \$50; and  
23 a parent organization filing on behalf of one or more chapters,

1 branches or affiliates or a single organization filing under  
2 different names shall pay a single annual registration fee of \$50  
3 for itself and the chapters, branches or affiliates included in the  
4 registration statement. All fees and moneys collected by the  
5 Secretary of State pursuant to the provisions of this article shall  
6 be deposited by the Secretary of State as follows: One-half shall  
7 be deposited in the state General Revenue Fund and one-half shall  
8 be deposited in the services fees and collections account  
9 established by section two, article one, chapter fifty-nine of this  
10 code for the operation of the office of the Secretary of State.  
11 The Secretary of State shall dedicate sufficient resources from  
12 that fund or other funds to provide the services required in this  
13 article.

14 (e) For good cause shown, the Secretary of State may extend  
15 the due date for the annual filing of a registration statement or  
16 report by a charitable organization or a professional fundraiser  
17 for a period not to exceed ninety days. During that period, the  
18 previously filed registration statement or report of the charitable  
19 organization which has been granted the extension remains in  
20 effect.

21 (f) In addition to the registration fee required by this  
22 section, a charitable organization or professional fundraiser, or  
23 both, which fails to file a registration statement or report by the

1 original or extended due date for filing as required by this  
2 section shall, for each month or part of the month thereafter in  
3 which the registration statement or report is not filed, pay an  
4 additional fee of \$25: *Provided*, That the total amount of the  
5 additional fees for a registration statement or report required to  
6 be filed in any one year may not exceed \$500. All fees and moneys  
7 collected by the Secretary of State pursuant to the provisions of  
8 this article shall be deposited by the Secretary of State as  
9 follows: One-half shall be deposited in the state General Revenue  
10 Fund and one-half shall be deposited in the service fees and  
11 collections account established by section two, article one,  
12 chapter fifty-nine of this code for the operation of the Office of  
13 the Secretary of State. The Secretary of State shall dedicate  
14 sufficient resources from that fund or other funds to provide the  
15 services required in this article.

NOTE: The purpose of this bill is to raise the threshold amount from \$200,000 to \$500,000 for which a charitable organization would be required to submit an audit report from an independent certified public accountant.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.