

COMMITTEE SUBSTITUTE

FOR

H. B. 2716

(BY DELEGATE(S) J. NELSON, LONGSTRETH, FERRO,
HAMILTON, L. PHILLIPS AND GUTHRIE)

(Originating in the House Committee on Finance)
[February 25, 2015]

A BILL to amend and reenact §29-19-5 of the Code of West Virginia, 1931, as amended, relating generally to annual statements of charitable organizations; requiring reports of financial audits and financial reviews of certain registered charitable organizations; and requiring additional information on annual 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 contributions,
3 donations or grants within this state or to have funds solicited or
4 received on its behalf shall, prior to any solicitation, file a
5 registration statement with the Secretary of State upon forms
6 prescribed by him or her, which shall be good for one full year
7 and which shall be refiled in the next and each following year in
8 which the charitable organization is engaged in solicitation
9 activities. If an organization discontinues solicitation at any time
10 after its last registration filing, then it shall file a registration
11 statement reflecting its activities during its last fiscal year in
12 which solicitation in West Virginia took place. ~~It is the duty of~~
13 The president, chairman or principal officer of the charitable
14 organization ~~to~~ shall file the statements required under this
15 article. The statements shall be sworn to and shall contain the
16 following information:

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

19 (2) The principal address of the organization and the address
20 of any offices in this state. If the organization does not maintain
21 an office, the name and address of the person having custody of
22 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 was
26 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 during
33 the preceding fiscal year, the costs and expenses incidental to the
34 fundraising and showing how the funds were disbursed or
35 allocated for the same fiscal year: *Provided*, That in addition to
36 the financial documents required by this subdivision:

37 (A) Charitable organizations raising more than ~~\$200,000~~
38 \$500,000 per year in contributions, excluding grants from

39 governmental agencies or private foundations, shall submit a
40 report of an audit by an independent certified public accountant;
41 and

42 (B) Charitable organizations raising more than ~~\$100,000~~
43 \$200,000 per year, but less than ~~\$200,001~~ \$500,000 per year in
44 contributions, excluding grants from governmental agencies or
45 private foundations, shall submit a statement of financial review
46 by an independent certified public accountant. ~~Organizations are~~
47 ~~required to report the amount of money received in the state and~~
48 ~~the amount spent in the state for charitable purposes;~~

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

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

57 (9) Whether the organization is authorized by any other
58 governmental authority to solicit contributions, donations or

59 grants and whether it is or has ever been enjoined by any court
60 from soliciting contributions;

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

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

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

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

71 (14) Copies of all contract documentation from professional
72 fund-raising counsels and professional solicitors as provided in
73 subsection (d), section seven of this article; 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 independent
77 member agency of a federated fund-raising organization, may
78 separately report the information required by this section or

79 report the information to its parent organization which shall then
80 furnish the information regarding its West Virginia affiliates,
81 chapters and branches in a consolidated form to the Secretary of
82 State. An independent member agency of a federated
83 fund-raising organization, as defined in section two of this
84 article, shall comply with the provisions of this article
85 independently. Each organization shall file a separate
86 registration form for each name under which funds will be
87 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 and by
91 the chief fiscal officer of the charitable organization and shall be
92 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 collecting
97 more than \$1 million during one year which submits an
98 independent registration to the Secretary of State shall pay an

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

113 (e) For good cause shown, the Secretary of State may extend
114 the due date for the annual filing of a registration statement or
115 report by a charitable organization or a professional fundraiser
116 for a period not to exceed ninety days. During that period, the
117 previously filed registration statement or report of the charitable

118 organization which has been granted the extension remains in
119 effect.

120 (f) In addition to the registration fee required by this section,
121 a charitable organization or professional fundraiser, or both,
122 which fails to file a registration statement or report by the
123 original or extended due date for filing as required by this
124 section shall, for each month or part of the month thereafter in
125 which the registration statement or report is not filed, pay an
126 additional fee of \$25: *Provided*, That the total amount of the
127 additional fees for a registration statement or report required to
128 be filed in any one year may not exceed \$500. All fees and
129 moneys collected by the Secretary of State pursuant to the
130 provisions of this article shall be deposited by the Secretary of
131 State as follows: One-half shall be deposited in the State General
132 Revenue Fund and one-half shall be deposited in the service fees
133 and collections account established by section two, article one,
134 chapter fifty-nine of this code for the operation of the office of
135 the Secretary of State. The Secretary of State shall dedicate
136 sufficient resources from that fund or other funds to provide the
137 services required in this article.