

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 351**

(Senator Ferns, *original sponsor*)

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

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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 section six of this article, which  
2 intends to solicit contributions, donations or grants within this state or to have funds solicited or  
3 received on its behalf shall, prior to any solicitation, file a registration statement with the Secretary  
4 of State upon forms prescribed by him or her which shall be good for one full year and which shall  
5 be refiled in the next and each following year in which the charitable organization is engaged in

1 solicitation activities. If an organization discontinues solicitation at any time after its last registration  
2 filing, then it shall file a registration statement reflecting its activities during its last fiscal year in  
3 which solicitation in West Virginia took place. The president, chairman or principal officer of the  
4 charitable organization shall file the statements required under this article. The statements shall be  
5 sworn to and shall contain the following information:

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

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

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

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

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

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

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

23 (B) Charitable organizations raising more than \$200,000 per year, but less than \$500,000 per

1 year in contributions, excluding grants from governmental agencies or private foundations, shall  
2 submit a statement of financial review by an independent certified public accountant;

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

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

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

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

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

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

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

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

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

22 (b) Each chapter, branch or affiliate, except an independent member agency of a federated  
23 fund-raising organization, may separately report the information required by this section or report

1 the information to its parent organization which shall then furnish the information regarding its West  
2 Virginia affiliates, chapters and branches in a consolidated form to the Secretary of State. An  
3 independent member agency of a federated fund-raising organization, as defined in section two of  
4 this article, shall comply with the provisions of this article independently. Each organization shall  
5 file a separate registration form for each name under which funds will be solicited.

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

9 (d) Every charitable organization receiving less than \$1 million during any year which  
10 submits an independent registration to the Secretary of State shall pay an annual registration fee of  
11 \$15; every charitable organization collecting more than \$1 million during one year which submits  
12 an independent registration to the Secretary of State shall pay an annual registration fee of \$50; and  
13 a parent organization filing on behalf of one or more chapters, branches or affiliates or a single  
14 organization filing under different names shall pay a single annual registration fee of \$50 for itself  
15 and the chapters, branches or affiliates included in the registration statement. All fees and moneys  
16 collected by the Secretary of State pursuant to the provisions of this article shall be deposited by the  
17 Secretary of State as follows: One-half shall be deposited in the State General Revenue Fund and  
18 one-half shall be deposited in the services fees and collections account established by section two,  
19 article one, chapter fifty-nine of this code for the operation of the office of the Secretary of State. The  
20 Secretary of State shall dedicate sufficient resources from that fund or other funds to provide the  
21 services required in this article.

22 (e) For good cause shown, the Secretary of State may extend the due date for the annual filing  
23 of a registration statement or report by a charitable organization or a professional fundraiser for a

1 period not to exceed ninety days. During that period, the previously filed registration statement or  
2 report of the charitable organization which has been granted the extension remains in effect.

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