

SB0072



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0072

Introduced 1/20/2023, by Sen. Laura M. Murphy

SYNOPSIS AS INTRODUCED:

225 ILCS 460/1
225 ILCS 460/4

from Ch. 23, par. 5101
from Ch. 23, par. 5104

Amends the Solicitation for Charity Act. Defines "reviewed financial statements". Provides that every charitable organization that receives in any 12-month period ending upon its established fiscal or calendar year contributions in excess of \$500,000 (rather than \$300,000) shall file a written report meeting specified criteria with the Attorney General. Provides that a charitable organization that receives in excess of \$300,000, but not in excess of \$500,000, shall file a written report meeting other specified criteria with the Attorney General upon forms prescribed by the Attorney General. Provides that the Attorney General, within a binding nonjudicial settlement agreement, may accept a written assurance of discontinuance of any method, act, or practice alleged to be a violation of the reporting requirements from the person who has engaged in the method, act, or practice. Provides that the changes made by the amendatory Act are inoperative on and after January 1, 2029. Effective January 1, 2024.

LRB103 25004 AMQ 51338 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Solicitation for Charity Act is amended by
5 changing Sections 1 and 4 as follows:

6 (225 ILCS 460/1) (from Ch. 23, par. 5101)

7 Sec. 1. Definitions. The following words and phrases as
8 used in this Act shall have the following meanings unless a
9 different meaning is required by the context.

10 (a) "Charitable organization" means any benevolent,
11 philanthropic, patriotic, or eleemosynary person or one
12 purporting to be such which solicits and collects funds for
13 charitable purposes and includes each local, county, or area
14 division within this State of such charitable organization,
15 provided such local, county, or area division has authority
16 and discretion to disburse funds or property otherwise than by
17 transfer to any parent organization.

18 (b) "Contribution" means the promise or grant of any money
19 or property of any kind or value, including the promise to pay,
20 except payments by union members of an organization. Reference
21 to the dollar amount of "contributions" in this Act means in
22 the case of promises to pay, or payments for merchandise or
23 rights of any other description, the value of the total amount

1 promised to be paid or paid for such merchandise or rights and
2 not merely that portion of the purchase price to be applied to
3 a charitable purpose. Contribution shall not include the
4 proceeds from the sale of admission tickets by any
5 not-for-profit music or dramatic arts organization which
6 establishes, by such proof as the Attorney General may
7 require, that it has received an exemption under Section
8 501(c)(3) of the Internal Revenue Code and which is organized
9 and operated for the presentation of live public performances
10 of musical or theatrical works on a regular basis. For
11 purposes of this subsection, union member dues and donated
12 services shall not be deemed contributions.

13 (c) "Person" means any individual, organization, group,
14 association, partnership, corporation, trust, or any
15 combination of them.

16 (d) "Professional fund raiser" means any person who for
17 compensation or other consideration, conducts, manages, or
18 carries on any solicitation or fund raising drive or campaign
19 in this State or from this State or on behalf of a charitable
20 organization residing within this State for the purpose of
21 soliciting, receiving, or collecting contributions for or on
22 behalf of any charitable organization or any other person, or
23 who engages in the business of, or holds himself or herself out
24 to persons in this State as independently engaged in the
25 business of soliciting, receiving, or collecting contributions
26 for such purposes. A bona fide director, officer, employee, or

1 unpaid volunteer of a charitable organization shall not be
2 deemed a professional fund raiser unless the person is in a
3 management position and the majority of the individual's
4 salary or other compensation is computed on a percentage basis
5 of funds to be raised, or actually raised.

6 (e) "Professional fund raising consultant" means any
7 person who is retained by a charitable organization or trustee
8 for a fixed fee or rate that is not computed on a percentage of
9 funds to be raised, or actually raised, under a written
10 agreement, to only plan, advise, consult, or prepare materials
11 for a solicitation of contributions in this State, but who
12 does not manage, conduct or carry on a fundraising campaign
13 and who does not solicit contributions or employ, procure, or
14 engage any compensated person to solicit contributions and who
15 does not at any time have custody or control of contributions.
16 A volunteer, employee, or salaried officer of a charitable
17 organization or trustee maintaining a permanent establishment
18 or office in this State is not a professional fundraising
19 consultant. An attorney, investment counselor, or banker who
20 advises an individual, corporation, or association to make a
21 charitable contribution is not a professional fundraising
22 consultant as a result of the advice.

23 (f) "Charitable purpose" means any charitable, benevolent,
24 philanthropic, patriotic, or eleemosynary purpose.

25 (g) "Charitable Trust" means any relationship whereby
26 property is held by a person for a charitable purpose.

1 (h) "Education Program Service" means any activity which
2 provides information to the public of a nature that is not
3 commonly known or facts which are not universally regarded as
4 obvious or as established by common understanding and which
5 informs the public of what it can or should do about a
6 particular issue.

7 (i) "Primary Program Service" means the program service
8 upon which an organization spends more than 50% of its program
9 service funds or the program activity which represents the
10 largest expenditure of funds in the fiscal period.

11 (j) "Professional solicitor" means any natural person who
12 is employed or retained for compensation by a professional
13 fund raiser to solicit, receive, or collect contributions for
14 charitable purposes from persons in this State or from this
15 State or on behalf of a charitable organization residing
16 within this State.

17 (k) "Program Service Activity" means the actual charitable
18 program activities of a charitable organization for which it
19 expends its resources.

20 (l) "Program Service Expense" means the expenses of
21 charitable program activity and not management expenses or
22 fund raising expenses. In determining Program Service Expense,
23 management and fund raising expenses may not be included.

24 (m) "Public Safety Personnel Organization" means any
25 person who uses any of the words "officer", "police",
26 "policeman", "policemen", "troopers", "sheriff", "law

1 enforcement", "fireman", "firemen", "paramedic", or similar
2 words in its name or in conjunction with solicitations, or in
3 the title or name of a magazine, newspaper, periodical,
4 advertisement book, or any other medium of electronic or print
5 publication, and is not a governmental entity. No organization
6 may be a Public Safety Personnel Organization unless 80% or
7 more of its voting members or trustees are active or retired
8 police officers, police officers with disabilities, peace
9 officers, firemen, fire fighters, emergency medical
10 technicians - ambulance, emergency medical technicians -
11 intermediate, emergency medical technicians - paramedic,
12 ambulance drivers, or other medical assistance or first aid
13 personnel.

14 (m-5) "Public Safety Personnel" includes police officers,
15 peace officers, firemen, fire fighters, emergency medical
16 technicians - ambulance, emergency medical technicians -
17 intermediate, emergency medical technicians - paramedic,
18 ambulance drivers, and other medical assistance or first aid
19 personnel.

20 (n) "Trustee" means any person, individual, group of
21 individuals, association, corporation, not for profit
22 corporation, or other legal entity holding property for or
23 solicited for any charitable purpose; or any officer,
24 director, executive director or other controlling persons of a
25 corporation soliciting or holding property for a charitable
26 purpose.

1 (o) "Reviewed financial statements" means procedures
2 performed on financial statements in accordance with
3 statements on standards for accounting and review services
4 issued by the American Institute of Certified Public
5 Accountants, in which a certified public accountant obtains
6 limited assurance as a basis for reporting whether the
7 accountant is aware of any material modifications that should
8 be made to the financial statements for them to be in
9 accordance with the specified basis of accounting. This
10 subsection is inoperative on and after January 1, 2029.

11 (Source: P.A. 99-143, eff. 7-27-15.)

12 (225 ILCS 460/4) (from Ch. 23, par. 5104)

13 Sec. 4. Annual reporting for charities.

14 (a) Every charitable organization registered pursuant to
15 Section 2 of this Act which shall receive in any 12-month
16 period ending upon its established fiscal or calendar year
17 contributions in excess of \$500,000 ~~\$300,000~~ and every
18 charitable organization whose fund raising functions are not
19 carried on solely by staff employees or persons who are unpaid
20 for such services, if the organization shall receive in any
21 12-month period ending upon its established fiscal or calendar
22 year contributions in excess of \$25,000, shall file a written
23 report with the Attorney General upon forms prescribed by him
24 or her, on or before June 30 of each year if its books are kept
25 on a calendar basis, or within 6 months after the close of its

1 fiscal year if its books are kept on a fiscal year basis, which
2 written report shall include a financial statement covering
3 the immediately preceding 12-month period of operation. Such
4 financial statement shall include a balance sheet and
5 statement of income and expense, and shall be consistent with
6 forms furnished by the Attorney General clearly setting forth
7 the following: gross receipts and gross income from all
8 sources, broken down into total receipts and income from each
9 separate solicitation project or source; cost of
10 administration; cost of solicitation; cost of programs
11 designed to inform or educate the public; funds or properties
12 transferred out of this State, with explanation as to
13 recipient and purpose; cost of fundraising; compensation paid
14 to trustees; and total net amount disbursed or dedicated for
15 each major purpose, charitable or otherwise. Such report shall
16 also include a statement of any changes in the information
17 required to be contained in the registration form filed on
18 behalf of such organization. The report shall be signed by the
19 president or other authorized officer and the chief fiscal
20 officer of the organization who shall certify that the
21 statements therein are true and correct to the best of their
22 knowledge, and shall be accompanied by an opinion signed by an
23 independent certified public accountant that the financial
24 statement therein fairly represents the financial operations
25 of the organization in sufficient detail to permit public
26 evaluation of its operations. Said opinion may be relied upon

1 by the Attorney General.

2 (b) Every organization registered pursuant to Section 2 of
3 this Act which shall receive in any 12-month period ending
4 upon its established fiscal or calendar year of any year
5 contributions:

6 (1) in excess of \$15,000, but not in excess of
7 \$25,000, during a fiscal year shall file only a simplified
8 summary financial statement disclosing only the gross
9 receipts, total disbursements, and assets on hand at the
10 end of the year on forms prescribed by the Attorney
11 General; ~~or~~

12 (2) in excess of \$25,000, but not in excess of
13 \$300,000, if it is not required to submit a report under
14 subsection (a) of this Section, shall file a written
15 report with the Attorney General upon forms prescribed by
16 him, on or before June 30 of each year if its books are
17 kept on a calendar basis, or within 6 months after the
18 close of its fiscal year if its books are kept on a fiscal
19 year basis, which shall include a financial statement
20 covering the immediately preceding 12-month period of
21 operation limited to a statement of such organization's
22 gross receipts from contributions, the gross amount
23 expended for charitable educational programs, other
24 charitable programs, management expense, and fund raising
25 expenses including a separate statement of the cost of any
26 goods, services, or admissions supplied as part of its

1 solicitations, and the disposition of the net proceeds
2 from contributions, including compensation paid to
3 trustees, consistent with forms furnished by the Attorney
4 General. Such report shall also include a statement of any
5 changes in the information required to be contained in the
6 registration form filed on behalf of such organization.
7 The report shall be signed by the president or other
8 authorized officer and the chief fiscal officer of the
9 organization who shall certify that the statements therein
10 are true and correct to the best of their knowledge; ~~or-~~

11 (3) in excess of \$300,000, but not in excess of
12 \$500,000, if it is not required to submit a report under
13 subsection (a), shall file a written report with the
14 Attorney General upon forms prescribed by the Attorney
15 General, on or before June 30 of each year if its books are
16 kept on a calendar basis, or within 6 months after the
17 close of its fiscal year if its books are kept on a fiscal
18 year basis, which written report shall include a financial
19 statement covering the immediately preceding 12-month
20 period of operation limited to a statement of such
21 organization's gross receipts from contributions, the
22 gross amount expended for charitable educational programs,
23 other charitable programs, management expense, and fund
24 raising expenses, including a separate statement of the
25 cost of any goods, services, or admissions supplied as
26 part of its solicitations, and the disposition of the net

1 proceeds from contributions, including compensation paid
2 to trustees, consistent with forms furnished by the
3 Attorney General. Such report shall also include a
4 statement of any changes in the information required to be
5 contained in the registration form filed on behalf of such
6 organization. The report shall be signed by the president
7 or other authorized officer and the chief fiscal officer
8 of the organization who shall certify that the statements
9 therein are true and correct to the best of their
10 knowledge and shall be accompanied by reviewed financial
11 statements, including a report signed by an independent
12 certified public accountant stating that the independent
13 certified public accountant is not aware of any material
14 modifications that should be made to the financial
15 statements in order to permit public evaluation of its
16 operations. The report may be relied upon by the Attorney
17 General.

18 (c) For any fiscal or calendar year of any organization
19 registered pursuant to Section 2 of this Act in which such
20 organization would have been exempt from registration pursuant
21 to Section 3 of this Act if it had not been so registered, or
22 in which it did not solicit or receive contributions, such
23 organization shall file, on or before June 30 of each year if
24 its books are kept on a calendar basis, or within 6 months
25 after the close of its fiscal year if its books are kept on a
26 fiscal year basis, instead of the reports required by

1 subdivisions (a) or (b) of this Section, a statement certified
2 under penalty of perjury by its president and chief fiscal
3 officer stating the exemption and the facts upon which it is
4 based or that such organization did not solicit or receive
5 contributions in such fiscal year. The statement shall also
6 include a statement of any changes in the information required
7 to be contained in the registration form filed on behalf of
8 such organization.

9 (d) As an alternative means of satisfying the duties and
10 obligations otherwise imposed by this Section, any veterans
11 organization chartered or incorporated under federal law and
12 any veterans organization which is affiliated with, and
13 recognized in the bylaws of, a congressionally chartered or
14 incorporated organization may, at its option, annually file
15 with the Attorney General the following documents:

16 (1) A copy of its Form 990, as filed with the Internal
17 Revenue Service.

18 (2) Copies of any reports required to be filed by the
19 affiliate with the congressionally chartered or
20 incorporated veterans organization, as well as copies of
21 any reports filed by the congressionally chartered or
22 incorporated veterans organization with the government of
23 the United States pursuant to federal law.

24 (3) Copies of all contracts entered into by the
25 congressionally chartered or incorporated veterans
26 organization or its affiliate for purposes of raising

1 funds in this State, such copies to be filed with the
2 Attorney General no more than 30 days after execution of
3 the contracts.

4 (e) As an alternative means of satisfying all of the
5 duties and obligations otherwise imposed by this Section, any
6 person, pursuant to a contract with a charitable organization,
7 a veterans organization, or an affiliate described or referred
8 to in subsection (d) who receives, collects, holds, or
9 transports as the agent of the organization or affiliate for
10 purposes of resale any used or second hand personal property,
11 including, but not limited to, household goods, furniture, or
12 clothing donated to the organization or affiliate may, at its
13 option, annually file with the Attorney General the following
14 documents, accompanied by an annual filing fee of \$15:

15 (1) A notarized report including the number of
16 donations of personal property it has received on behalf
17 of the charitable organization, veterans organization, or
18 affiliate during the preceding year. For purposes of this
19 report, the number of donations of personal property shall
20 refer to the number of stops or pickups made regardless of
21 the number of items received at each stop or pickup. The
22 report may cover the person's fiscal year, in which case
23 it shall be filed with the Attorney General no later than
24 90 days after the close of that fiscal year.

25 (2) All contracts with the charitable organization,
26 veterans organization, or affiliate under which the person

1 has acted as an agent for the purposes listed above.

2 (3) All contracts by which the person agreed to pay
3 the charitable organization, veterans organization, or
4 affiliate a fixed amount for, or a fixed percentage of the
5 value of, each donation of used or second hand personal
6 property. Copies of all such contracts shall be filed no
7 later than 30 days after they are executed.

8 (f) The Attorney General may seek appropriate equitable
9 relief from a court, enter into a binding nonjudicial
10 settlement agreement, or ~~or, in his discretion,~~ cancel the
11 registration of any organization which fails to comply with
12 subsection ~~subdivision~~ (a), (b), or (c) of this Section within
13 the time therein prescribed, or fails to furnish such
14 additional information as is requested by the Attorney General
15 within the required time; except that the time may be extended
16 by the Attorney General for a period not to exceed 60 days upon
17 a timely written request and for good cause stated. Unless
18 otherwise stated herein, the Attorney General shall, by rule,
19 set forth the standards used to determine whether a
20 registration shall be cancelled as authorized by this
21 subsection. Such standards shall be stated as precisely and
22 clearly as practicable, to inform fully those persons
23 affected. Notice of such cancellation shall be mailed to the
24 registrant at least 15 days before the effective date thereof.

25 (g) The Attorney General in his or her discretion may,
26 pursuant to rule, accept executed copies of federal Internal

1 Revenue returns and reports as a portion of the foregoing
2 annual reporting in the interest of minimizing paperwork,
3 except there shall be no substitute for the independent
4 certified public accountant audit opinion required by this
5 Act.

6 (h) The Attorney General after canceling the registration
7 of any trust or organization which fails to comply with this
8 Section within the time therein prescribed may by court
9 proceedings, in addition to all other relief, seek to collect
10 the assets and distribute such under court supervision to
11 other charitable purposes.

12 (h-5) The Attorney General, within a binding nonjudicial
13 settlement agreement, may accept a written assurance of
14 discontinuance of any method, act, or practice alleged to be a
15 violation of subsection (a), (b), or (c) from the person who
16 has engaged in the method, act, or practice. The Attorney
17 General may at any time reopen a matter in which an assurance
18 of discontinuance is accepted for further proceedings if the
19 Attorney General determines that reopening the matter is in
20 the public interest. Evidence of a violation of an assurance
21 of discontinuance is prima facie evidence of a violation of
22 this Act in any subsequent proceeding brought by the Attorney
23 General.

24 (i) Every trustee, person, and organization required to
25 file an annual report shall pay a filing fee of \$15 with each
26 annual financial report filed pursuant to this Section. If a

1 proper and complete annual report is not timely filed, a late
2 filing fee of an additional \$100 is imposed and shall be paid
3 as a condition of filing a late report. Reports submitted
4 without the proper fee shall not be accepted for filing.
5 Payment of the late filing fee and acceptance by the Attorney
6 General shall both be conditions of filing a late report. All
7 late filing fees shall be used to provide charitable trust
8 enforcement and dissemination of charitable trust information
9 to the public and shall be maintained in a separate fund for
10 such purpose known as the Illinois Charity Bureau Fund.

11 (j) There is created hereby a separate special fund in the
12 State Treasury to be known as the Illinois Charity Bureau
13 Fund. That Fund shall be under the control of the Attorney
14 General, and the funds, fees, and penalties deposited therein
15 shall be used by the Attorney General to enforce the
16 provisions of this Act and to gather and disseminate
17 information about charitable trustees and organizations to the
18 public.

19 (k) The changes made to this Section by this amendatory
20 Act of the 103rd General Assembly are inoperative on and after
21 January 1, 2029.

22 (Source: P.A. 100-201, eff. 8-18-17.)

23 Section 99. Effective date. This Act takes effect January
24 1, 2024.