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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/07

SPONSOR Gardner LAST UPDATED _____ HB 849

SHORT TITLE Charitable Organization Info Requirements SB _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 849 amends Section 57-22-6 of the Charitable Solicitations Act [NMSA 1978, §§ 57-22-1 et seq.] to impose an additional reporting requirement on charitable organizations already reporting to the Attorney General on their operating and fundraising activities.

FISCAL IMPLICATIONS

HB 849 provides no appropriation to the attorney general for the newly mandated charitable organizations filing requirement. To implement, manage and oversee the additional filings made to the attorney general, the AGO will incur a need for additional resources and staff to provide the additional oversight.

if the Registry of Charitable Organizations was provided additional funds to purchase a data system that could automatically extract the information sought by HB 849, the Registry would be able to post this information on the AGO's website for access by the general public.

SIGNIFICANT ISSUES

The Attorney General's Registry of Charitable Organizations reports that the currently-mandated filing of annual information by charitable organizations is due to the AGO within six (6) months of the end of the organization's fiscal year. Because the different organizations have different fiscal year ends, these filing documents come into the AGO's Registry of Charitable Organizations daily. The Registry currently has more than 5,000 charitable organizations or nonprofits registered in New Mexico. Thus, the Registry receives more than 5,000 annual report forms/IRS Form 990s each year. The two Registry staff must process, acknowledge and file each one of these more than 5,000 annual reports or IRS Form 990s. Additionally, the Registry receives about 20 new registrations each week and report that the filing of more than 5,000 annual reports or IRS Form 990s are in addition to the registration of professional fundraisers. The bill would double the number of filings.

HB 849 proposes to amend Section 57-22-6 to add a new subsection D. Subsection D mandates that, in addition to their required filing of annual reports or IRS Form 990s within six (6) months of the end of a charitable organization's fiscal year, that nonprofit must file with the AGO's Registry of Charitable Organizations additional documents or information by May 1 of each year.

Section (D)(1) of HB 849 mandates a May 1 filing of the compensation paid to the charitable organization's directors and officers — Registry staff report that this information is already provided on the organization's IRS Form 990 that is filed within six (6) months of the organization's fiscal year end.

Section (D)(2) of HB 849 mandates a May 1 filing of the amount expended for lobbying state and federal agencies — Registry staff report that this information is already provided on the charitable organization's IRS Form 990 that is filed within six (6) months of the organization's fiscal year end.

Section (D)(3) of HB 849 mandates a May 1 filing of the amount expended for political contributions — Registry staff report that any 501(c)(3) nonprofit entity cannot make political contributions and, if it does, that charitable organization will lose its tax exempt status as outlined in Internal Revenue Codes.

Section (D)(4) of HB 849 mandates a May 1 filing of the amount received from any for-profit entity owned by a charitable organization — Registry staff report that all entities, nonprofit and for-profit, affiliated with a charitable organization are listed in the organization's IRS Form 990 that is filed within six (6) months of the organization's fiscal year end. Additionally, all sales, exchanges of assets and purchases of assets with any for-profit entity must be included in the IRS Form 990.

Registry staff reports that creating a May 1 deadline may be burdensome for charitable organizations. Charitable organizations are permitted to compile their tax information and mandated reports within six (6) months of the end of their fiscal year. Mandating an additional filing with the AGO's Registry of Charitable Organizations that is due on May 1 may cause many nonprofits to be unable to timely comply. Section (E) of HB 849 permits the Registry to impose and collect a late filing fee of \$100.00. Consequently, those charitable organizations with a fiscal year end within six (6) months prior to May 1 may not have the information

mandated by HB 849 available in a timely manner.

For example, a charitable organization or nonprofit with an April 1 fiscal year end may not be able to compile the newly mandated information by the May 1 deadline. The IRS and the AGO's Registry of Charitable Organizations permit the charitable organization six (6) months to prepare its tax forms and make its required filings. A charitable organization or nonprofit may not be able to comply by May 1 with the new requirements imposed by HB 849, especially if they use an outside accounting firm to prepare their annual tax forms and annual reports.

Finally, Registry staff report that they receive many requests from the general public for information about charitable organizations or nonprofits. Registry staff report that information about a charitable organization's lobbying expenses, political contributions and affiliations are not typically requested. In fact, the Registrar reports that in her four years with the AGO, not one person has ever asked about a charitable organization's lobbying expenses, political contributions or affiliations.

TECHNICAL ISSUES

The information requested by HB 849 is currently available on the IRS Form 990 that charitable organizations already file with the AGO's Registry of Charitable Organizations.

ALTERNATIVES

If the intent of the bill is to have charitable organization that own for-profit entities to provide more disclosure, perhaps the AGO's Registry of Charitable Organizations could make rules for the implementation of the existing law, as permitted by Section 57-22-6(B).

EO/nt