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HOUSE BILL 958

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Al Park

AN ACT

RELATING TO CHARITABLE ORGANIZATIONS; REQUIRING REGISTRATION OF  
FUNDRAISING CAMPAIGNS; CREATING A FUND; PRESCRIBING FEES;  
MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 57-22-6 NMSA 1978 (being Laws 1983,  
Chapter 140, Section 6, as amended) is amended to read:

"57-22-6. FILING OF REQUIRED DOCUMENTS.--

A. A charitable organization existing, operating or  
soliciting in the state, unless exempted by Section 57-22-4  
NMSA 1978, shall register with the attorney general on a form  
provided by the attorney general; correct any deficiencies in  
its registration upon notice of deficiencies provided by the  
attorney general; ~~and~~ provide a copy of its IRS Form 1023 or  
IRS Form 1024 application for exempt status with its

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1 registration; and pay the required registration fees.

2 B. The attorney general shall notify each  
3 charitable organization required to register within ten  
4 business days of his receipt of the registration form of any  
5 deficiencies in the registration and may make rules in  
6 accordance with the State Rules Act, as are necessary for the  
7 proper administration of this section, including:

8 (1) requirements for filing additional  
9 information, including disclosure of professional fundraising  
10 counsel retained by the charitable organization; and

11 (2) provisions for suspending the filing of  
12 reports or granting an exemption from the registration and  
13 reporting requirements of this section for a charitable  
14 organization subject to audit, registration, charter or other  
15 requirements of a statewide, regional or national association  
16 and if it is determined that such reports or registration is  
17 not necessary for the protection of the public interest.

18 C. In addition to any other reporting requirements  
19 pursuant to the Charitable Solicitations Act, every charitable  
20 organization that has received tax-exempt status pursuant to  
21 Section 501(c)(3) of the federal Internal Revenue Code of 1986,  
22 as amended, and is required to file a form 990, 990EZ or 990PF  
23 pursuant to the Internal Revenue Code of 1986, as amended,  
24 shall file that form and the accompanying schedule A annually  
25 with the office of the attorney general up to six months

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1 following the close of the charitable organization's fiscal  
2 year. Extensions of time for filing may be allowed at the  
3 discretion of the attorney general for good cause shown. Such  
4 forms shall be public records and available for public  
5 inspection. Organizations that do not file a form 990, 990EZ  
6 or 990PF pursuant to the Internal Revenue Code of 1986, as  
7 amended, shall file an annual report, under oath, on the form  
8 provided by the attorney general for that purpose. A  
9 charitable organization that received total revenue in excess  
10 of five hundred thousand dollars (\$500,000) shall be audited by  
11 an independent certified public accountant. Audits shall be  
12 performed in accordance with generally acceptable accounting  
13 principles. A charitable organization shall correct any  
14 deficiencies in an annual report upon notice of deficiencies  
15 provided by the attorney general.

16 D. A charitable organization that fails to register  
17 before a solicitation is made or fails to timely file its tax  
18 filings with the attorney general pursuant to Subsection C of  
19 this section may be assessed a late filing fee of one hundred  
20 dollars (\$100).

21 E. The attorney general may accept information  
22 filed by a charitable organization with another state or the  
23 federal government in lieu of the registration and reporting  
24 requirements of the Charitable Solicitations Act if such  
25 information is determined by the attorney general to be in

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1 substantial compliance with the registration and reporting  
2 requirements of that act."

3 Section 2. Section 57-22-6.1 NMSA 1978 (being Laws 1999,  
4 Chapter 124, Section 12) is amended to read:

5 "57-22-6.1. PROFESSIONAL FUNDRAISERS--REGISTRATION.--

6 A. Professional fundraisers shall, before entering  
7 into a contract with [~~any~~] a charitable organization, except a  
8 religious organization, to solicit for or on its behalf:

9 (1) register with the attorney general on a  
10 form provided by the attorney general and pay the required  
11 fees;

12 (2) file with the attorney general a surety  
13 bond pursuant to the Charitable Solicitations Act; and

14 (3) file with the attorney general a copy of  
15 the intended written contract between the professional  
16 fundraiser and the charitable organization on whose behalf the  
17 professional fundraiser intends to conduct a solicitation  
18 campaign.

19 B. The contract between the professional fundraiser  
20 and the charitable organization shall clearly describe the:

21 (1) compensation and authority of the  
22 professional fundraiser;

23 (2) solicitation campaign;

24 (3) location and telephone numbers from where  
25 solicitations are intended to be conducted;

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1 (4) list of names and addresses of all  
2 employees, agents or other persons who are to solicit during  
3 the campaign; and

4 (5) copies of the solicitation literature,  
5 including scripts of any written or verbal solicitation.

6 C. The charitable organization on whose behalf the  
7 professional fundraiser is acting shall certify that the  
8 contract and solicitation materials filed with the attorney  
9 general are true and complete.

10 D. Within ten business days after receiving a  
11 registration pursuant to this section, the attorney general  
12 shall notify the professional fundraiser of any deficiencies in  
13 the registration, contract or bond; otherwise the filing is  
14 deemed approved as filed.

15 E. A professional fundraiser who fails to register  
16 with the attorney general may be assessed a late registration  
17 fee of five hundred dollars (\$500)."

18 Section 3. A new section of the Charitable Solicitations  
19 Act is enacted to read:

20 "[NEW MATERIAL] FUNDRAISING CAMPAIGNS.--Unless exempted by  
21 the provisions of Section 57-22-4 or 57-22-6.1 NMSA 1978, every  
22 professional fundraiser soliciting donations on behalf of a  
23 charitable organization shall file each fundraising campaign  
24 with and submit to the attorney general:

25 A. a copy of all campaign materials;

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1           B. a copy of the contract between the professional  
2 fundraiser and the charitable organization;

3           C. other information requested by the attorney  
4 general; and

5           D. the fundraising campaign registration fee."

6           Section 4. A new section of the Charitable Solicitations  
7 Act is enacted to read:

8           "[NEW MATERIAL] REGISTRATION FEES.--

9           A. The attorney general may charge the following  
10 fees:

11                   (1) for initial and annual registration as a  
12 charitable organization, a fee not to exceed twenty-five  
13 dollars (\$25.00);

14                   (2) for initial registration as a professional  
15 fundraiser, a fee not to exceed five hundred dollars (\$500);  
16 and

17                   (3) for registration of a fundraising  
18 campaign, a fee not to exceed two hundred fifty dollars (\$250).

19           B. Fees shall be deposited in the charitables unit  
20 fund."

21           Section 5. A new section of the Charitable Solicitations  
22 Act is enacted to read:

23           "[NEW MATERIAL] FUND CREATED--USE.--The "charitables unit  
24 fund" is created in the state treasury. The fund consists of  
25 registration fees collected pursuant to the Charitable

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1 Solicitations Act, appropriations, gifts, grants and donations.  
2 Money in the fund shall not revert to any other fund at the end  
3 of a fiscal year. The fund shall be administered by the  
4 attorney general and money in the fund is appropriated to the  
5 attorney general to defray costs associated with the  
6 administration and enforcement of the Charitable Solicitations  
7 Act."

8 Section 6. APPROPRIATION.--Three hundred thousand dollars  
9 (\$300,000) is appropriated from the general fund to the  
10 charitables unit fund for expenditure in fiscal year 2006 and  
11 subsequent fiscal years to carry out the purposes of the fund.  
12 Any unexpended or unencumbered balance remaining at the end of  
13 a fiscal year shall not revert to the general fund.

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