

LEGISLATION REQUIRING CERTAIN CHARITABLE ORGANIZATIONS TO REGISTER WITH THE STATE RAISES SOME CONCERNS FOR REP. SPIEGELMAN

April 2014

Dear Editor,

A bill that has received a fair amount of public attention this legislative session is one that would directly impact some of our nonprofit organizations in Delaware.

House Bill 187 would require certain charitable organizations that are soliciting donations from Delaware citizens to register with the Consumer Protection Unit in the Attorney General's Office and to submit financial disclosure information annually. The bill also requires professional fundraisers who are soliciting contributions from the public to register with the state and file annual financial reports.

Certain nonprofits under the bill are exempt, including religious organizations. Those that aren't exempt will be required to pay a filing fee when they register their organization. The fee ranges from \$25 to \$100, depending on the size of the nonprofit. For those larger organizations with gross revenue over \$1 million annually, they will be required to submit a financial audit conducted by a Certified Public Accountant.

The legislation was introduced last session, but didn't gain traction until earlier this year when it came before the House Economic Development, Banking, Insurance and Commerce Committee. It was heard in committee in late January and was voted out of committee so that it can be heard by the full House at some future point. I voted against releasing the legislation based on a number of significant concerns that came out during the committee hearing.

I certainly support the concept of the legislation which, according to the bill's synopsis, is "to provide the public with the tools and information sufficient to make informed decisions about which charitable purposes to support while also facilitating transparency and confidence in the sector; thereby creating a more robust philanthropic climate in Delaware." However, there are still some unanswered questions about the potential effect on the operations of Delaware's charitable organizations.

My main concerns deal with the following:

- The burden of adding one more reporting obligation to an already lengthy list of duties by many of those charitable groups that continue to have to do more with less staffing resources.
- The burden of adding one more expense on top of many increased costs that nonprofits have been faced with following years of a down economy. To expect them to pay to register – through either a fee or all-out audit – can be onerous for these organizations. For those larger organizations that would face an annual audit, it is likely that could become very expensive for some groups. Couldn't that money be better spent fulfilling the mission of the nonprofit or serving their targeted clients?

- There is already a safeguard in place for the registration of organizations accepting monetary donations, which occurs at the federal level. Nonprofits are only able to receive tax exempt donations if they have been approved by the Internal Revenue Service as a 501(c)(3) organization.
- The legislation treats non-compliance by the nonprofit as a criminal offense. Under House Bill 187, violations are considered a Class G Felony, punishable by up to two years in prison or a fine of up to \$10,000. What message does this send to the nonprofits that we, as a state, so heavily rely upon for meeting the overwhelming demands of many in need throughout Delaware?

These are a few of the concerns that I believe need to be addressed before moving forward with this well-intentioned bill. Even though it was voted out of committee and could theoretically be voted on at any time by the full House, action on the bill is not likely until some of these details are ironed out. Possible additional amendments to the bill may also be forthcoming, but there is nothing definite as of yet.

If you are a nonprofit organization and believe that this bill could significantly impact your operations, I am very interested in hearing your thoughts on the legislation. Please call (302-399-7728) or email (Jeff.Spiegelman@state.de.us) your questions and concerns to me directly. If there is a way to achieve the purpose of ensuring a greater level of consumer confidence toward charitable organizations without placing onerous burdens on these groups, many of which do yeoman's work, then I am hopeful we can suggest some meaningful changes to this bill.

Sincerely,



Jeff Spiegelman
State Representative
11th District