

SENATE, No. 844

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Revises financial reporting requirements for charitable organizations; excludes non-monetary in-kind donations from gross revenue for purpose of reporting requirements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/11/2021)

1 **AN ACT** concerning financial reporting requirements of charitable
2 organizations and amending P.L.1994, c.16.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 7 of P.L.1994, c.16 (C.45:17A-24) is amended to
8 read as follows:

9 7. a. Every charitable organization operating or soliciting
10 within this State, except for those provided for in section 8 of this
11 act or exempt pursuant to section 9 of this act, shall file a long form
12 registration statement with the Attorney General.

13 b. The long form shall contain the following:

14 (1) The name of the organization and any other name or names
15 under which it intends to solicit contributions and the purposes for
16 which it was organized;

17 (2) The name, street address and telephone number of each
18 officer, director and trustee and each principal salaried executive
19 staff employee and whether the person has been adjudged liable in
20 an administrative or civil action, or convicted in a criminal action,
21 involving theft, fraud or deceptive business practices. For the
22 purposes of this paragraph:

23 (a) a plea of guilty, non vult, nolo contendere or any similar
24 disposition of alleged criminal activity shall be deemed a
25 conviction;

26 (b) "each principal salaried executive staff employee" shall be
27 limited to no more than the five most highly compensated
28 employees in the organization; and

29 (c) a judgment of liability in an administrative or civil action
30 shall include, but not be limited to, any finding or admission that
31 the officer, director, trustee or principal salaried executive staff
32 employee engaged in an unlawful practice or practices related to the
33 solicitation of contributions or the administration of charitable
34 assets, regardless of whether that finding was made in the context of
35 an injunction, a proceeding resulting in the denial, suspension or
36 revocation of an organization's registration, consented to in an
37 assurance of voluntary compliance or any similar order or legal
38 agreement with any state or federal agency.

39 (3) A copy of the most recent Internal Revenue Service Form
40 990 and Schedule A (990) for every registrant if the organization
41 filed these forms;

42 (4) A clear description of the specific programs and charitable
43 purpose for which contributions will be used and a statement
44 whether such programs are planned or are in existence;

45 (5) A statement disclosing pertinent information concerning

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 whether any of the organization's officers, directors, trustees or
2 principal salaried executive staff employees as defined in
3 subparagraph (b) of paragraph (2) of subsection b. of this section:

4 (a) Are related by blood, marriage or adoption to each other or
5 to any officers, agents or employees of any fund raising counsel or
6 independent paid fund raiser under contract to the organization, or
7 are related by blood, marriage or adoption to any chief executive
8 employee, any other employee of the organization with a direct
9 financial interest in the transaction, or any partner, proprietor,
10 director, officer, trustee, or to any shareholder of the organization
11 with more than a two percent interest of any supplier or vendor
12 providing goods or services to the organization and, if so, the name
13 and business and home address and telephone number of each
14 related party; or

15 (b) Have a financial interest in any activity engaged in by a fund
16 raising counsel or independent paid fund raiser under contract to the
17 organization or any supplier or vendor providing goods or services
18 to the organization and, if so, the name and business address and
19 telephone number of each interested party.

20 (6) The amount of any grant or financial assistance from any
21 agency of government in its preceding fiscal year;

22 (7) A statement setting forth the place where and the date when
23 the organization was legally established and the form of the
24 organization;

25 (8) The principal street address and telephone number of the
26 organization and the address and telephone number of each office in
27 this State. If the organization does not maintain an office in this
28 State, the name and address of the individual having custody of its
29 financial records pertaining to operations or solicitations in this
30 State shall be disclosed;

31 (9) The name, street address and telephone number of each
32 affiliate which shares in the contributions or other revenue raised in
33 this State;

34 (10) The date when the organization's fiscal year ends;

35 (11) A statement whether:

36 (a) The organization is authorized by any other state to solicit
37 contributions and, if so, a listing of the states in which authorization
38 has been obtained;

39 (b) The organization is or has ever been enjoined in any
40 jurisdiction from soliciting contributions or has been found to have
41 engaged in unlawful practices in the solicitation of contributions or
42 the administration of charitable assets;

43 (c) The organization's registration has been denied, suspended
44 or revoked by any jurisdiction, together with the reasons for that
45 denial, suspension or revocation; and

46 (d) The organization has voluntarily entered into an assurance of
47 voluntary compliance agreement or any similar order or legal
48 agreement with any jurisdiction or federal agency or officer;

1 (12) Whether the organization intends to solicit contributions
2 from the general public; and

3 (13) Any other information as may be prescribed by rules
4 adopted by the Attorney General. In prescribing the requirements
5 of the long form, the Attorney General shall permit a charitable
6 organization to incorporate by reference any information reported
7 by the organization on its Service Form 990 and Schedule A (990).

8 c. With initial registration only, every charitable organization
9 required to file a long form registration shall also file a copy of the
10 organization's charter, articles of organization, agreement of
11 association, instrument of trust, constitution or other organizational
12 instrument and bylaws, and a statement setting forth the
13 organization's tax exempt status with copies of federal or state tax
14 exemption determination or exemption ruling letters; provided that
15 any changes in the accuracy of this information shall be reported to
16 the Attorney General pursuant to subsection e. of section 14 of this
17 act.

18 d. (1) Every charitable organization required to file a long form
19 registration shall file an annual financial report with the Attorney
20 General. The annual financial report shall include: a balance sheet;
21 a statement of support revenue, expenses and changes in fund
22 balance; a statement of functional expenses at least divided into
23 program, management, general, and fund raising; and such other
24 information as the Attorney General shall by rule require.

25 (2) The annual financial report of every charitable organization
26 which received gross revenue in excess of **【\$250,000】** \$500,000 in
27 monetary donations, or any greater amount that the Attorney
28 General may prescribe by regulation, during its most recently
29 completed fiscal year shall be accompanied by: (a) a financial
30 statement prepared in accordance with generally accepted
31 accounting principles or other comprehensive basis of accounting
32 approved for use by the Attorney General by regulation which has
33 been audited in accordance with generally accepted auditing
34 standards by an independent certified public accountant; and (b) any
35 management letters prepared by the auditor in connection with the
36 audit commenting on the internal accounting controls or
37 management practices of the organization.

38 The annual financial reports of all organizations receiving more
39 than \$25,000 but less than **【\$250,000】** \$500,000 in monetary
40 donations, or any greater amount that the Attorney General may
41 prescribe by regulation, shall be certified by the organization's
42 president or other authorized officer of the organization's governing
43 board and at the request of the Attorney General, the organization
44 shall submit: (a) a financial statement prepared in accordance with
45 generally accepted accounting principles or other comprehensive
46 basis of accounting approved for use by the Attorney General by
47 regulation which has been audited in accordance with generally
48 accepted auditing standards by an independent certified public

1 accountant; and (b) any management letters prepared by the auditor
2 in connection with the audit commenting on the internal accounting
3 controls or management practices of the organization.

4 Notwithstanding any other provision of law to the contrary, non-
5 monetary donations in the form of in-kind contributions directly
6 related to any stated purpose or mission of the charitable
7 organization, including food for food pantries or food banks,
8 supplies for shelters, and such other forms of in-kind contributions
9 as may be permitted by the Attorney General, shall not constitute
10 gross revenue with respect to the requirement of an annual financial
11 report with a financial statement audited by an independent certified
12 public accountant under this subsection. In addition to any other
13 requirement under this subsection, annual financial reports and
14 statements shall include a summary of all non-monetary in-kind
15 contributions and the value attributed to those contributions.

16 (3) The Attorney General may accept a copy of a current
17 financial report previously prepared by a charitable organization for
18 another state agency or officer in compliance with the laws of that
19 state, provided that the report filed with the other state agency or
20 officer shall be substantially similar in content to the report required
21 by this subsection.

22 (4) An independent member agency of a federated fund raising
23 organization shall independently comply with the provisions of this
24 subsection.

25 e. In order to register its qualified local units pursuant to
26 subsection d. of section 9 of this act, a parent organization
27 registered pursuant to this section shall include with its initial
28 registration and annual renewal statement a separate statement that
29 provides the following:

30 (1) The name, principal street address, and phone number of all
31 local units within this State that it is registering;

32 (2) The amount of gross contributions received by each such
33 unit and the purpose or purposes for which these funds were raised
34 in the preceding fiscal year; and

35 (3) A statement asserting that each such local unit has provided
36 the parent organization with a written statement reporting the
37 information included on its behalf and asserting that the local unit
38 meets all of the requirements of subsection d. of section 9 of this
39 act.

40 f. Any management letters prepared by the auditor in
41 connection with the audit commenting on the internal accounting
42 controls or management practices of the organization submitted
43 pursuant to paragraph (2) of subsection d. of this section shall not
44 be considered a public record under P.L.1963, c.73 (C.47:1A-1 et
45 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), shall not be made
46 available for public inspection nor used for a purpose inconsistent
47 with P.L.1994, c.16 (C.45:17A-18 et seq.), and shall be removed
48 from the record in the custody of the Attorney General at such time

1 that such information is no longer necessary for the enforcement of
2 that act. The records required pursuant to this section shall be
3 maintained for a period of at least three years after the end of the
4 period of time to which they relate.

5 (cf: P.L.2005, c.283, s.3)

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7 2. This act shall take effect immediately.

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10 STATEMENT

11
12 This bill would amend the New Jersey “Charitable Registration
13 and Investigation Act” by revising the thresholds of gross revenue
14 amounts received by charitable organizations that determine their
15 annual financial reporting requirements with the Attorney General’s
16 office. The bill also would exclude non-monetary in-kind donations
17 directly related to the mission of the charitable organization from
18 gross revenue for the purpose of requiring annual disclosure reports
19 to include a financial statement which has been audited by an
20 independent certified public accountant. In-kind donations would
21 include food for food pantries or food shelters, supplies for shelter,
22 and any other in-kind contributions the Attorney General permits.

23 The bill provides that a charitable organization operating or
24 soliciting within the State which receives annual gross revenue in
25 excess of \$500,000 in monetary donations must file with its annual
26 disclosure report a financial statement which has been audited by an
27 independent certified public accountant. The threshold for this
28 audited financial statement requirement under current law is
29 \$250,000 of gross revenue, including in-kind donations, or any
30 greater amount that the Attorney General may prescribe by
31 regulation.

32 Regulations adopted by the Attorney General increased the
33 threshold to \$500,000 of gross revenue. The regulations also specify
34 that for the purpose of determining if an audit is required, a
35 charitable organization’s gross revenue shall not include: one-time
36 bequests, fund raising campaigns for capital property in a single
37 fiscal year, the value of services performed by volunteers, or items
38 purchased by other entities for the use of the charitable organization
39 in situations in which ownership of the item is retained by the
40 original purchaser. The bill would exempt certain non-monetary in-
41 kind contributions from inclusion as gross revenue as well.

42 In addition, the bill makes a corresponding adjustment by
43 providing that organizations that have annual gross revenues in
44 excess of \$25,000 and up to \$500,000 must file an annual financial
45 report that is certified by the organization’s president or other
46 authorized officer.

47 Charitable organizations incur significant expenses associated
48 with providing audited financial statements on an annual basis.

1 These expenses, or some portion of them, could otherwise be used
2 to further the charitable mission of these organizations. The burden
3 of annual financial reporting expenses borne by some charitable
4 organizations may be relieved by increasing the threshold at which
5 organizations must file audited financial statements, and excluding
6 certain non-monetary in-kind contributions from gross revenue.