

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1166

Short Title: Nonprofits Disclosure/Accountability.

(Public)

Sponsors: Representatives McMahan, Bowie, Culpepper, Daughtry, Dickson, Nye; Aldridge, Allred, Baker, Buchanan, Clary, Crawford, Gardner, Hill, Howard, Justus, G. Miller, Pate, Rayfield, Reynolds, Sexton, Shubert, and Watson.

Referred to: Judiciary I.

May 15, 1996

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE REQUIRED DISCLOSURE STATEMENT AND ELIMINATE DUPLICATIVE REPORTING REQUIREMENTS UNDER THE CHARITABLE SOLICITATIONS ACT AND TO MODIFY AND CLARIFY REQUIREMENTS FOR NONGOVERNMENTAL ENTITIES' ACCOUNTABILITY FOR STATE GRANTS.

The General Assembly of North Carolina enacts:

PART I. AMEND CHARITABLE SOLICITATIONS ACT

Section 1.1. G.S. 131F-9(c) reads as rewritten:

"(c) Printed Disclosure. – Every charitable organization or sponsor that is required to obtain a license under G.S. 131F-5 shall conspicuously display in capital letters in bold type of a minimum size ~~10~~nine points, the following statement on every printed solicitation, written confirmation, receipt, or reminder of a contribution:

~~'A COPY OF THE LICENSE TO SOLICIT CHARITABLE CONTRIBUTIONS AS A CHARITABLE ORGANIZATION OR SPONSOR AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DEPARTMENT OF HUMAN RESOURCES, SOLICITATION LICENSING BRANCH, BY CALLING (919) 733-4510. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR~~

1 ~~RECOMMENDATION BY THE STATE.'~~—'Financial information about this
2 organization and a copy of its license are available from the State Solicitation Licensing
3 Branch at [telephone number]. The license is not an endorsement by the State.'

4 The statement shall be made conspicuous by use of one or more of the following:
5 underlining, a border, or bold type. When the solicitation consists of more than one
6 piece, the statement shall be displayed prominently in the solicitation materials, but not
7 necessarily on every page."

8 Sec. 1.2. G.S. 131F-17(a)(3) reads as rewritten:

9 "(3) In addition to the information required by subdivision (1) of this
10 subsection, any written confirmation, receipt, or reminder of
11 contribution made pursuant to an oral solicitation and any written
12 solicitation shall conspicuously state in ~~capital letters in bold-type~~ of a
13 minimum of ~~10~~ nine points:

14 ~~'A COPY OF THE LICENSE AND FINANCIAL INFORMATION OF~~
15 ~~THE SOLICITOR MAY BE OBTAINED FROM THE~~
16 ~~DEPARTMENT OF HUMAN RESOURCES, SOLICITATION~~
17 ~~LICENSING BRANCH, BY CALLING (919) 733-4510.~~
18 ~~REGISTRATION DOES NOT IMPLY ENDORSEMENT,~~
19 ~~APPROVAL, OR RECOMMENDATION BY THE STATE.'~~

20 'Financial information about the solicitor and a copy of its license are available
21 from the State Solicitation Licensing Branch at [telephone number].
22 The license is not an endorsement by the State.'

23 The statement shall be made conspicuous by use of one or more of
24 the following: underlining, a border, or bold type. When the solicitation
25 materials consist of more than one piece, the statement shall be
26 displayed prominently in the solicitation materials, but not necessarily
27 on every page."

28 Sec. 1.3. G.S. 131F-6 reads as rewritten:

29 **"§ 131F-6. Information required for licensure.**

30 (a) Initial Information Required. – The initial application for a license for a
31 charitable organization or sponsor shall be submitted on a form provided by the
32 Department, signed under oath by the treasurer or chief fiscal officer of the charitable
33 organization or sponsor, and shall include the following:

34 (1) The name of the charitable organization or sponsor, the purpose for
35 which it is organized, the name under which it intends to solicit
36 contributions, and the purpose for which the contributions to be
37 solicited will be used.

38 (2) The principal street address and telephone number of the charitable
39 organization or sponsor and the street address and telephone numbers of
40 any offices in this State or, if the charitable organization or sponsor does
41 not maintain an office in this State, the name, street address, and
42 telephone number of the person who has custody of its financial records.
43 The parent organization that files a consolidated registration statement

- 1 under G.S. 131F-7 on behalf of its chapters, branches, or affiliates shall
2 additionally provide the street addresses and telephone numbers of all of
3 its locations in this State.
- 4 (3) The names and street addresses of the officers, directors, trustees, and
5 the salaried executive personnel.
- 6 (4) The date when the charitable organization's or sponsor's fiscal year
7 ends.
- 8 (5) A list or description of the major program activities.
- 9 (6) The names, street addresses, and telephone numbers of the individuals
10 or officers who have final responsibility for the custody of the
11 contributions and who will be responsible for the final distribution of
12 the contributions.
- 13 (7) The name of the individuals or officers who are in charge of any
14 solicitation activities.
- 15 (8) A financial report for the immediately preceding fiscal year upon a form
16 provided by the Department. The report shall include the following:
- 17 a. The balance sheet.
- 18 b. A statement of support, revenue, and expenses, and any change
19 in the fund balance.
- 20 e. ~~The names and addresses of any fund raising consultant,~~
21 ~~solicitor, and coventurer used, if any, and the amounts received~~
22 ~~from each of them, if any.~~
- 23 d. A statement of expenses in the following categories:
- 24 1. Program.
- 25 2. Management and general.
- 26 3. Fund-raising.
- 27 (9) In substitution for the ~~financial report information~~ described in
28 ~~subdivision (8) subdivisions (3), (4), (5), (6), and (8)~~ of this subsection, a
29 charitable organization or sponsor may ~~submit~~ submit, at the time the
30 application is filed, a copy of its Internal Revenue Service Form 990 and
31 Schedule A filed for the preceding fiscal year, or a copy of its Form
32 990-EZ filed for the preceding fiscal year.
- 33 (10) A charitable organization or sponsor may include a financial report
34 which has been audited by an independent certified public accountant or
35 an audit with opinion by an independent certified public accountant. In
36 the event that a charitable organization or sponsor elects to file this, this
37 optional filing shall be noted in the Department's annual report
38 submitted under G.S. 131F-30.
- 39 (11) A newly organized charitable organization or sponsor with no financial
40 history shall file a budget for the current fiscal year.
- 41 (12) A statement indicating all of the following:
- 42 a. Whether or not the charitable organization or sponsor is
43 authorized by any other state to solicit contributions.

- 1 b. Whether or not the charitable organization or sponsor or any of
2 its officers, directors, trustees, or salaried executive personnel
3 have been enjoined in any jurisdiction from soliciting
4 contributions or have been found to have engaged in unlawful
5 practices in the solicitation of contributions or administration of
6 charitable assets.
- 7 c. Whether or not the charitable organization or sponsor has had its
8 authority denied, suspended, or revoked by any governmental
9 agency, together with the reasons for the denial, suspension, or
10 revocation.
- 11 d. Whether or not the charitable organization or sponsor has
12 voluntarily entered into an assurance of voluntary compliance or
13 agreement similar to that set forth in G.S. 131F-24(c), together
14 with a copy of that agreement.

15 (13) The names, street addresses, and telephone numbers of any solicitor,
16 fund-raising consultant, or coventurer who is acting or has agreed to act
17 on behalf of the charitable organization or sponsor, together with a
18 statement setting forth the specific terms of the arrangements for
19 salaries, bonuses, commissions, expenses, or other compensation to be
20 paid the fund-raising consultant, solicitor, or ~~coventurer~~ coventurer, and
21 the amounts received from each of them, if any.

22 (14) With initial licensing only, when and where the organization was
23 established, the tax-exempt status of the organization, and a copy of any
24 federal tax exemption determination letter. If the charitable organization
25 or sponsor has not received a federal tax exemption determination letter
26 at the time of initial licensing, a copy of the determination shall be filed
27 with the Department within 30 days after receipt of the determination by
28 the charitable organization or sponsor. If the organization is
29 subsequently notified by the Internal Revenue Service of any challenge
30 to its continued entitlement to federal tax exemption, the charitable
31 organization or sponsor shall notify the Department of this fact within
32 30 days after receipt.

33 (b) Renewal Information Required. – A license shall be renewed on an annual
34 basis. The charitable organization or sponsor shall submit any changes in the information
35 submitted from the initial application."

36 **PART II. NONPROFITS/STATE FUNDS ACCOUNTABILITY**

37 Sec. 2.1. G.S. 143-6.1 reads as rewritten:

38 "**§ 143-6.1. Information from private organizations receiving State funds;**
39 **information from State departments and agencies providing State funds.**
40 **Reports on use of State funds by non-State entities.**

41 (a) Disbursement and Use of State Funds. – Every corporation, organization, and
42 institution ~~which receives, uses~~ that receives, uses, or expends any State funds shall use or
43 expend ~~such~~ the funds only for the purposes for which ~~such State funds~~ they were

1 appropriated by the General Assembly or collected by the State. State funds include
2 federal funds that flow through the State. For the purposes of this section, the term
3 'grantee' means a corporation, organization, or institution that receives, uses, or expends
4 any State funds. The State may not disburse State funds appropriated by the General
5 Assembly or collected by the State for use by any grantee unless that grantee has
6 provided all the reports and financial information required by this section. When
7 disbursing funds to a grantee, a State agency shall notify the grantee whether the funds
8 are for the purchase of goods and services and whether the funds are subject to federal
9 reporting requirements. All financial statements furnished to the State Auditor pursuant
10 to this section, and any audits or other reports prepared by the State Auditor, are public
11 records.

12 (b) State Agency Reports. – A State agency that receives State funds and then
13 disburses the State funds to a grantee must identify the grantee to the State Auditor,
14 unless the funds were for the purchase of goods and services. The State agency must
15 submit documents to the State Auditor in a prescribed format describing standards of
16 compliance and suggested audit procedures sufficient to give adequate direction to
17 independent auditors performing audits.

18 (c) Grantee Receipt and Expenditure Reports. – A grantee that receives, uses, or
19 expends between fifteen thousand dollars (\$15,000) and one hundred thousand dollars
20 (\$100,000) in State funds annually, except when the funds are for the purchase of goods
21 or services, must file annually with the State agency that disbursed the funds a sworn
22 accounting of receipts and expenditures of the State funds. This accounting must be
23 attested to by the treasurer of the grantee and one other authorizing officer of the grantee.
24 The accounting must be filed within six months after the end of the grantee's fiscal year
25 in which the State funds were received. The accounting shall be in the form required by
26 the disbursing agency. Each State agency shall develop a format for these accountings
27 and shall obtain the State Auditor's approval of the format.

28 (d) Grantee Audit Reports. – A grantee that receives, uses, or expends State funds
29 in the amount of one hundred thousand dollars (\$100,000) or more annually, except when
30 the funds are for the purchase of goods or services, must file annually with the State
31 Auditor a financial statement in the form and on the schedule prescribed by the State
32 Auditor. The financial statement must be audited in accordance with standards
33 prescribed by the State Auditor to assure that State funds are used for the purposes
34 provided by law.

35 (e) Federal Reporting Requirements. – Federal law may require a grantee to make
36 additional reports with respect to funds for which reports are required under this section.
37 Notwithstanding the provisions of this section, a grantee may satisfy the reporting
38 requirements of subsection (c) of this section by submitting a copy of the report required
39 under federal law with respect to the same funds or by submitting a copy of the report
40 described in subsection (d) of this section.

41 (f) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article
42 5A of Chapter 147 of the General Statutes, of every grantee that receives, uses, or
43 expends State funds. Such a grantee must, upon request, furnish to the State Auditor for

1 audit all books, records, and other information necessary for the State Auditor to account
2 fully for the use and expenditure of State funds. The grantee must furnish any additional
3 financial or budgetary information requested by the State Auditor.

4 ~~Each corporation, organization, and institution which receives, uses or expends State~~
5 ~~funds in the amount of twenty-five thousand dollars (\$25,000) or more annually, except~~
6 ~~when the funds are for the purchase of goods or services, shall file annually with the State~~
7 ~~Auditor and with the Joint Legislative Commission on Governmental Operations~~
8 ~~financial statements for that year in which twenty-five thousand dollars (\$25,000) or~~
9 ~~more in State funds were received, used, or expended. These financial statements shall~~
10 ~~be audited in accordance with the auditing standards prescribed by the State Auditor, and~~
11 ~~the audit report shall be received by the State Auditor within six months after the end of~~
12 ~~the private organization's year in which twenty-five thousand dollars (\$25,000) or more~~
13 ~~were received, used, or expended. Each corporation, organization, and institution shall~~
14 ~~furnish to the State Auditor for audit all books, records and other information as shall be~~
15 ~~necessary for the State Auditor to account fully for the use and expenditure of State~~
16 ~~funds. Each such corporation, organization, and institution shall furnish such additional~~
17 ~~financial or budgetary information as shall be requested by the State Auditor or by the~~
18 ~~Joint Legislative Commission on Governmental Operations. The State shall not disburse~~
19 ~~State funds appropriated by the General Assembly or collected by the State for use by~~
20 ~~any corporation, organization, or institution until that corporation, organization, or~~
21 ~~institution has provided all the reports and financial information required by this section.~~
22 ~~All financial statements furnished to the State Auditor or to the Joint Legislative~~
23 ~~Commission on Governmental Operations pursuant to this section, and any audits or~~
24 ~~other reports prepared by the State Auditor, shall be public records.~~

25 ~~Each State department and agency shall identify to the State Auditor each corporation,~~
26 ~~organization, and institution to which State funds received by the department or agency~~
27 ~~have been provided, except for the purchase of goods and services, and submit~~
28 ~~documents to the State Auditor for approval in a prescribed format describing standards~~
29 ~~of compliance and suggested audit procedures sufficient to give adequate direction to~~
30 ~~independent auditors performing audits.~~

31 ~~The receipt, use or expenditure of State funds by a corporation, organization, and~~
32 ~~institution shall not, in and of itself, make or constitute such corporation, organization, or~~
33 ~~institution a State agency."~~

34 Sec. 2.2. Section 11 of Chapter 324 of the 1995 Session Laws is repealed.

35 **PART III. EFFECTIVE DATES**

36 Sec. 3.1. Section 1.3 of Part I and Part II of this act become effective July 1,
37 1996. The remainder of this act is effective upon ratification. Effective until January 1,
38 1998, a document that complies with the requirements of G.S. 131F-9(c) or G.S. 131F-
39 17(a)(3) as in effect before ratification of this act shall be considered to comply with the
40 requirements of the respective statute as amended by this act.