

LEGISLATIVE HISTORY CHECKLIST

HJSA 45:17A-6 (Charities--certain waiver of annual audit)

LAWS OF 1979 CHAPTER 188

Bill No. S779

Sponsor(s) Bedell

Date Introduced Feb. 9, 1978

Committee: Assembly Commerce, Industry and Professions
Senate Law, Public Safety and Defense

Amended during passage Yes ~~xxx~~ Amendments during passage denoted by asterisks
 according to Governor's recommendations
 Date of Passage: Assembly Sept. 25, 1978 Re-enacted June 18, 1979
Senate April 17, 1978 Re-enacted May 24, 1979

Date of approval Sept. 11, 1979

Following statements are attached if available:

Sponsor statement	Yes	no
Committee Statement: Assembly	Yes	no
Senate	Yes	no
Fiscal Note	Yes	no
Veto message	Yes	no
Message on signing	Yes	no
Following were printed:		
Reports	Yes	no
Hearings	Yes	no

DEPT. OF REVENUE COPY
 Do Not Remove From Library

9/1/78 EJ

188 79
9-11-79
[OFFICIAL COPY REPRINT]

SENATE No. 779

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 9, 1978

By Senator BEDELL

Referred to Committee on Law, Public Safety and Defense

AN ACT to amend the "Charitable Fund Raising Act of 1971,"
approved March 2, 1972 (P. L. 1971, c. 469).

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. Section 6 of P. L. 1971, c. 469 (C. 45:17A-6) is amended to
2 read as follows:

3 6. (a) Every charitable organization registered pursuant to
4 section 4 of this act which shall receive in any fiscal year of such
5 organization contributions in excess of \$10,000.00 and every
6 charitable organization whose fund-raising functions are not
7 carried on solely by persons who are unpaid for such services shall
8 file a written report with the department upon forms prescribed
9 by it, within 6 months after the close of such fiscal year, which
10 shall include a financial statement covering such fiscal year,
11 clearly setting forth the gross income, expenses, and net income
12 inuring to the benefit of the charitable organization, a balance sheet
13 as of the close of such fiscal year and a schedule of the activities
14 carried on by the organization in the performance of its purposes,
15 and the amounts expended thereon, during such fiscal year. Each
16 such organization shall report its expenditures in accordance with
17 standards and classifications of accounts prescribed by the At-
18 torney General to effect uniform reporting by organizations having
19 similar activities and programs. Such report shall also include a
20 statement of any changes in the information required to be con-
21 tained in the registration form filed on behalf of such organization.
22 The report shall be signed by the president or other authorized
23 officer and the chief fiscal officer of the organization~~[.]~~. In addition,
24 reports of all organizations *~~[receiving in excess of \$50,000.00~~
25 ~~during the fiscal period being reported]~~* ~~[and]~~ shall be accom-
26 panied by an opinion signed by an independent public accountant

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

27 that the financial statement and balance sheet therein fairly repre-
28 sent the financial operations and position of the organization; *the*
29 *reports of all organizations receiving less than \$50,000.00 shall be*
30 *certified by such president or other authorized officer *if, upon*
30A *application to the Attorney General for a waiver, the Attorney*
30B *General waives the requirement for an opinion signed by an inde-*
30C *pendent public accountant.**

31 (b) Every organization registered pursuant to section 4 of this
32 act which shall receive in any fiscal year of such organization con-
33 tributions not in excess of \$10,000.00 and all of whose fund-raising
34 functions are carried on by persons who are unpaid for such
35 services shall file a written report with the Attorney General upon
36 forms prescribed by it, within 6 months after the close of such
37 fiscal year, which shall include a financial statement covering such
38 fiscal year limited to a statement of such organization's gross
39 receipts from contributions, fund-raising expenses including a
40 separate statement of the costs of any goods, services or admissions
41 supplied as part of its solicitations, and the disposition of the net
42 proceeds from contributions. Such report shall also include a state-
43 ment of any changes in the information required to be contained
44 in the registration form filed on behalf of such organization. The
45 report shall be signed by the president or other authorized officer
46 and the chief fiscal officer of the organization who shall certify that
47 the statements therein are true and correct to the best of their
48 knowledge.

49 (c) For any fiscal year of any organization registered pursuant
50 to section 4 of this act in which such organization would have been
51 exempt from registration pursuant to section 5 of this act if it
52 had not been so registered, or in which it did not solicit or receive
53 contributions, such organization shall file, instead of the reports
54 required by subsections (b) or (c) of this section, a report in the
55 form of an affidavit of its president and chief fiscal officer stating
56 the exemption and the facts upon which it is based or that such
57 organization did not solicit or receive contributions in such fiscal
58 year. The affidavit shall also include a statement of any changes
59 in the information required to be contained in the registration form
60 filed on behalf of such organization.

61 (d) (1) Any charitable organization registered pursuant to sec-
62 tion 4 of this act, which is the parent organization of one or more
63 chapters thereof within the State, and such chapters may comply
64 with the reporting requirements of subsections (a), (b) or (c) of
65 this section, by filing a consolidated written report upon forms
66 prescribed by the Attorney General.

67 (2) As used in this subsection the term "chapter" shall include
68 any branch, auxiliary, affiliate or other subordinate unit of any
69 registered charitable organization, howsoever designated, whose
70 policies, fund-raising activities, and expenditures are supervised
71 or controlled by such parent organization.

72 (3) There shall be appended to each consolidated report a sched-
73 ule containing such information as may be prescribed by the At-
74 torney General, reflecting the activities of each chapter, which shall
75 contain a certification, under penalty of perjury, by an official of
76 the organization, certifying that the information contained thereon
77 is true.

78 (4) The failure of a parent organization to file an appropriate
79 consolidated written report shall not excuse either the parent or-
80 ganization or its chapters from complying with the provisions of
81 subsections (a), (b) or (c) of this section.

82 (e) The Attorney General shall cancel the registration of any
83 organization which fails to comply with subsection (a), (b) or (c)
84 of this section within the time therein prescribed, or fails to furnish
85 such additional information as is requested by the Attorney General
86 within the required time; except that the time may be extended by
87 the Attorney General for a period not to exceed 6 months. Notice
88 of such cancellation shall be mailed to the registrant at least 15
89 days before the effective date thereof.

90 (f) All records, books and reports maintained by any chari-
91 table organization registered or required to register pursuant to
92 section 4 of this act shall at all times be available for inspection, at
93 the principal office of such organization, by the Attorney General
94 or his duly authorized representatives.

1 2. This act shall take effect immediately.

69 registered charitable organization, howsoever designated, whose
70 policies, fund-raising activities, and expenditures are supervised
71 or controlled by such parent organization.

72 (3) There shall be appended to each consolidated report a sched-
73 ule containing such information as may be prescribed by the At-
74 torney General, reflecting the activities of each chapter, which shall
75 contain a certification, under penalty of perjury, by an official of
76 the organization, certifying that the information contained thereon
77 is true.

78 (4) The failure of a parent organization to file an appropriate
79 consolidated written report shall not excuse either the parent or-
80 ganization or its chapters from complying with the provisions of
81 subsections (a), (b) or (c) of this section.

82 (e) The Attorney General shall cancel the registration of any
83 organization which fails to comply with subsection (a), (b) or (c)
84 of this section within the time therein prescribed, or fails to furnish
85 such additional information as is requested by the Attorney General
86 within the required time; except that the time may be extended by
87 the Attorney General for a period not to exceed 6 months. Notice
88 of such cancellation shall be mailed to the registrant at least 15
89 days before the effective date thereof.

90 (f) All records, books and reports maintained by any chari-
91 table organization registered or required to register pursuant to
92 section 4 of this act shall at all times be available for inspection, at
93 the principal office of such organization, by the Attorney General
94 or his duly authorized representatives.

1 2. This act shall take effect immediately.

STATEMENT

Under present law, charities regulated by the "Charitable Fund Raising Act of 1971" are required to accompany their annual report to the Attorney General with an opinion signed by an independent public accountant attesting to the accuracy of the financial data therein. This requirement places an inordinate burden on small charities (i.e. those with contributions under \$50,000.00 or 20% of all registered charities) by requiring them to pay public accountant fees which they can ill afford. Because of this, many are filing reports without the required opinion and, therefore, risk the cancellation of their registrations.

This bill would exempt charities which receive annual contributions totaling less than \$50,000.00.

S. 779 (1979)

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 18, 1979

SENATE BILL NO. 779

To the Senate:

Pursuant to Article V, Section 1, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 779, with my objections, for reconsideration.

This bill would amend the "Charitable Fund Raising Act of 1971," N.J.S.A. 45:17A-1 et seq., by exempting charitable organizations registered by the State, which annually receive contributions of less than \$50,000, from the requirement that their annual report to the Attorney General must be accompanied by an opinion signed by an independent public accountant certifying that the financial statement and balance sheet contained in the report fairly represent the financial operations and position of the organization. The bill further provides that the reports of such organizations receiving less than \$50,000 shall be certified by the president or other authorized officer of the organization.

It is recognized that the present law requiring an accompanying report by an independent public accountant places a burden on these small charities by requiring them to pay public accountant fees, and that as a result some of these small charities are filing reports without the required opinion, and are thereby risking the cancellation of their registrations pursuant to N.J.S.A. 45:17A-6(e). On the other hand, the existence of this present certification requirement may inhibit some existing or potential small charities from improper activities.

To balance these competing considerations, I recommend that the bill be amended to provide that charities receiving less than \$50,000 during the fiscal year being reported may apply to the Attorney General for a waiver of the requirement of an opinion signed by an independent public accountant. The Attorney General may, in his discretion, grant or deny such a waiver, and will thereby be in a position to monitor the practices of these small charities, and thus help safeguard the public from possible deception and fraud.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 779

Accordingly, I herewith return Senate Bill No. 779 for reconsideration and with the recommendation that it be amended as follows:

Page 1, Section 6(a), lines 24-25: delete "receiving in excess of \$50,000.00 during the fiscal period being reported"

Page 2, Section 6(a), line 30: delete "."

Page 2, Section 6(a), line 30: after the word "officer," insert "If, upon application to the Attorney General for a waiver, the Attorney General waives the requirement for an opinion signed by an independent public accountant."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Robert E. Mulcahy, III

GOVERNOR