



Senate

General Assembly

File No. 632

February Session, 2004

Substitute Senate Bill No. 396

Senate, April 20, 2004

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-190b of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2004*):

3 Every charitable organization not exempted by section 21a-190d
4 shall register with the department prior to conducting any solicitation
5 or prior to having any solicitation conducted on its behalf by others.
6 Application for registration shall be made on forms prescribed by the
7 department and shall include payment of a fee of [twenty] fifty dollars.
8 Two authorized officers of the organization shall sign the registration
9 form and shall certify that the statements therein are true and correct
10 to the best of their knowledge. A chapter, branch or affiliate in this
11 state of a registered parent organization shall not be required to
12 register provided the principal office of the parent organization is
13 located in this state and provided the parent organization files a

14 consolidated annual report for itself and its chapter, branch or affiliate.

15 Sec. 2. Section 21a-190c of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective October 1, 2004*):

17 (a) Every charitable organization required to register pursuant to
18 section 21a-190b, as amended by this act, shall annually file with the
19 department a report for its most recently completed fiscal year, which
20 report shall include (1) a financial statement, (2) an itemized list of (A)
21 all funds raised with the assistance of any fund-raising counsel or paid
22 solicitor, or both, and (B) the percentage of such funds that any such
23 fund-raising counsel or paid solicitor retained or was paid, and (3)
24 such other information as the commissioner may require. Such
25 charitable organization shall file such report not more than five
26 months following the close of its fiscal year, which report shall be
27 accompanied by a fee of twenty-five dollars and shall be signed by two
28 authorized officers of the organization, one of whom shall be the chief
29 fiscal officer of the organization. The information contained in such
30 report shall be available to the public. Such officers shall certify that
31 such report is true and correct to the best of their knowledge. The
32 commissioner shall prescribe the form of the report and may prescribe
33 standards for its completion. The commissioner may accept, under
34 such conditions as said commissioner may prescribe, a copy or
35 duplicate original of financial statements, reports or returns filed by
36 the charitable organization with the Internal Revenue Service or
37 another state having requirements similar to the provisions of sections
38 21a-190a to 21a-190l, inclusive, as amended.

39 (b) A charitable organization with gross revenue in excess of two
40 hundred thousand dollars in the year covered by the report shall
41 include with its financial statement an audit report of a certified public
42 accountant. For purposes of this section, gross revenue shall not
43 include grants or fees from government agencies or the revenue
44 derived from funds held in trust for the benefit of the organization.

45 (c) The commissioner may, upon written request and for good cause
46 shown, grant an extension of time, not to exceed three months, for the

47 filing of such report.

48 (d) An additional late filing fee of twenty-five dollars shall
49 accompany any report which is not filed in a timely manner.

50 (e) Every charitable organization required to file an annual report
51 and every charitable organization subject to the provisions of
52 subdivision (6) of section 21a-190d shall keep true fiscal records which
53 shall be available to the department for inspection upon request. Such
54 organization shall retain such records for no less than three years after
55 the end of the fiscal year to which they relate.

56 (f) Every charitable organization shall file with the department an
57 accounting of all its expenditures of its most recently completed
58 quarter. Such charitable organization shall file such report not more
59 than thirty days following the close of every quarter. The
60 commissioner shall prescribe the form and content of such report.

61 Sec. 3. Subsection (a) of section 21a-190e of the general statutes is
62 repealed and the following is substituted in lieu thereof (*Effective*
63 *October 1, 2004*):

64 (a) Each contract between a charitable organization and a fund-
65 raising counsel shall be in writing and shall be filed by the fund-raising
66 counsel with the department at least fifteen days prior to the
67 performance by the fund-raising counsel of any material services
68 pursuant to such contract. The contract shall contain such information
69 as will enable the department to identify the services the fund-raising
70 counsel is to provide and the manner and amount of [his] such fund-
71 raising counsel's compensation. Immediately prior to the start of the
72 solicitation event or campaign that is the subject of such contract, the
73 department shall place an advertisement in a newspaper having a
74 substantial circulation in the town or towns in which the solicitation
75 event or campaign is to occur. Such advertisement shall describe the
76 terms of the contract between the fund-raising counsel and the
77 charitable organization and shall include the percentage of the raised
78 funds to be retained by the fund-raising counsel. The cost of such

79 advertisement shall be paid to the department by the fund-raising
80 counsel as a fee at the time such contract is filed with the department.

81 Sec. 4. Section 21a-190f of the general statutes is repealed and the
82 following is substituted in lieu thereof (*Effective October 1, 2004*):

83 (a) No person shall act as a paid solicitor unless [he] such person has
84 first registered with the department. Applications for registration and
85 for the renewal of a registration shall be in writing, under oath, in the
86 form prescribed by the department and shall be accompanied by a fee
87 in the amount of [~~one hundred twenty~~] two hundred fifty dollars. The
88 application shall contain such information as the department shall
89 require. Each registration shall be valid for one year and may be
90 renewed for additional one-year periods.

91 (b) An applicant for registration or for a renewal of registration as a
92 paid solicitor shall, at the time of making such application, file with
93 and have approved by the department a bond, in which the applicant
94 shall be the principal obligor in the sum of twenty thousand dollars,
95 with one or more responsible sureties whose liability in the aggregate
96 as such sureties shall be no less than such sum. The paid solicitor shall
97 maintain the bond in effect as long as the registration is in effect. The
98 bond shall run to the state and to any person who may have a cause of
99 action against the principal obligor of the bond for any liabilities
100 resulting from the obligor's conduct of any activities subject to sections
101 21a-190a to 21a-190l, inclusive, as amended by this act, or arising out of
102 a violation of said sections or any regulation adopted pursuant to said
103 sections.

104 (c) No less than twenty days prior to the commencement of each
105 solicitation campaign, a paid solicitor shall file with the department a
106 copy of the contract described in subsection (d) of this section. [and
107 shall] Immediately prior to the start of the solicitation event or
108 campaign that is the subject of such contract, the department shall
109 place an advertisement in a newspaper having a substantial circulation
110 in the town or towns in which the solicitation event or campaign is to
111 occur. Such advertisement shall describe the terms of the contract

112 between the paid solicitor and the charitable organization and shall
113 include the percentage of the raised funds to be retained by the paid
114 solicitor. The cost of such advertisement shall be paid to the
115 department by the paid solicitor as a fee at the time such contract is
116 filed with the department. The paid solicitor shall also file a completed
117 solicitation notice on forms prescribed by the department. A
118 solicitation notice shall be in writing and under oath, and shall include
119 a description of the solicitation event or campaign, the location and
120 telephone number from which the solicitation is to be conducted, the
121 names and residence addresses of all employees, agents or other
122 persons however styled who are to solicit during such campaign and
123 the account number and location of all bank accounts where receipts
124 from such campaign are to be deposited. Copies of campaign
125 solicitation literature, including the text of any solicitation to be made
126 orally, shall be attached to the solicitation notice. The charitable
127 organization on whose behalf the paid solicitor is acting shall certify
128 that the solicitation notice and accompanying material are true and
129 complete.

130 (d) A contract between a paid solicitor and a charitable organization
131 shall be in writing, shall clearly state the respective obligations of the
132 paid solicitor and the charitable organization and shall state the
133 minimum amount [which] that the charitable organization shall
134 receive as a result of the solicitation campaign, which minimum
135 amount shall be stated as a percentage of the gross revenue. Such
136 minimum amount shall not include any amount [which] that the
137 charitable organization is to pay as expenses of the solicitation
138 campaign.

139 (e) A paid solicitor shall, prior to orally requesting a contribution,
140 and at the same time at which a written request for a contribution is
141 made, clearly and conspicuously disclose at the point of solicitation
142 [his] such solicitor's name as on file with the department, the fact that
143 [he] such solicitor is a paid solicitor and the percentage of the gross
144 revenue which the charitable organization shall receive as identified in
145 subsection (d) of this section.

146 (f) A paid solicitor shall, in the case of a solicitation campaign
147 conducted orally, whether by telephone or otherwise, send a written
148 confirmation to each person who has pledged to contribute, no more
149 than five days after such person has been solicited, which confirmation
150 shall include a clear and conspicuous disclosure of the information
151 required by subsection (e) of this section.

152 (g) A paid solicitor shall not represent that any part of the
153 contributions received will be given or donated to any charitable
154 organization unless such organization has consented in writing to the
155 use of its name, prior to the solicitation. Such written consent, if given,
156 shall be signed by two authorized officers, directors or trustees of the
157 charitable organization.

158 (h) No paid solicitor shall represent that tickets to an event are to be
159 donated for use by another, unless the paid solicitor has first obtained
160 a commitment, in writing, from a charitable organization stating that it
161 will accept donated tickets and specifying the number of tickets which
162 it is willing to accept and provided no more contributions for donated
163 tickets shall be solicited than the number of ticket commitments
164 received from the charitable organization.

165 (i) A paid solicitor shall require any person [he] such solicitor
166 directly or indirectly employs, procures or engages to solicit to comply
167 with the provisions of subsections (e) to (h), inclusive, of this section.

168 (j) A paid solicitor shall file a financial report for the campaign with
169 the department no more than ninety days after a solicitation campaign
170 has been completed, and on the anniversary of the commencement of
171 any solicitation campaign which lasts more than one year. The
172 financial report shall include gross revenue and an itemization of all
173 expenditures incurred. The report shall be completed on a form
174 prescribed by the department. An authorized official of the paid
175 solicitor and two authorized officials of the charitable organization
176 shall sign such report and they shall certify, under oath, that such
177 report is true and complete to the best of their knowledge.

178 (k) A paid solicitor shall maintain during each solicitation campaign
179 and for not less than three years after the completion of each such
180 campaign the following records, which shall be [available to the
181 department for inspection upon request] submitted to the department
182 quarterly: (1) The name and address of each contributor and the date
183 and amount of the contribution, provided the department shall not
184 disclose this information except to the extent necessary for
185 investigative or law enforcement purposes; (2) the name and residence
186 of each employee, agent or other person involved in the solicitation;
187 and (3) records of all income received and expenses incurred in the
188 course of the solicitation campaign.

189 (l) If a paid solicitor sells tickets to an event and represents that
190 tickets will be donated for use by another, the paid solicitor shall
191 maintain, for not less than three years after the completion of such
192 event, the following records, which shall be available to the
193 department for inspection upon request: (1) The name and address of
194 contributors donating tickets and the number of tickets donated by
195 each contributor; and (2) the name and address of all organizations
196 receiving donated tickets for use by others, including the number of
197 tickets received by each organization.

198 (m) All funds collected by the paid solicitor shall be deposited in a
199 bank account. The bank account shall be in the name of the charitable
200 organization with whom the paid solicitor has contracted and the
201 charitable organization shall have sole or joint control of the account.

202 (n) Any material change in any information filed with the
203 department pursuant to this section shall be reported in writing by the
204 paid solicitor to the department not more than seven days after such
205 change occurs.

206 (o) No person may act as a paid solicitor if such person, any officer
207 or director thereof, any person with a controlling interest therein, or
208 any person the paid solicitor employs, engages or procures to solicit
209 for compensation, has been convicted by a court of any state or the
210 United States of any felony, or of any misdemeanor involving

211 dishonesty or arising from the conduct of a solicitation for a charitable
 212 organization or purpose. Any denial, suspension or revocation of the
 213 registration of a paid solicitor based on a violation of this subsection
 214 shall be made in accordance with the provisions of section 46a-80.

215 Sec. 5. Section 21a-190k of the general statutes is repealed and the
 216 following is substituted in lieu thereof (*Effective October 1, 2004*):

217 The commissioner may adopt regulations_z in accordance with the
 218 provisions of chapter 54_z in order to carry out and enforce the
 219 provisions of sections 21a-190a to 21a-190l, inclusive, as amended by
 220 this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>

FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - Revenue Gain	Minimal	Minimal
Consumer Protection, Dept.	GF - Cost	82,976	82,976
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	36,470	48,627

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases registration fees for charitable organizations from \$20 to \$50 and registration fees for their paid solicitors from \$120 to \$250. In FY 03, the Department of Consumer Protection collected \$7,640 in registration fees from charitable organizations. In the same period, the department collected \$9,840 in registration fees from paid solicitors.

The increase in regulatory responsibilities under the bill would require the Department of Consumer Protection to hire one administrative hearings attorney (an annual salary of \$67,053) and one secretary (an annual salary of \$39,916).¹ A one-time start-up cost of \$5,000 for equipment would be eliminated in FY 06.

¹ Salary and fringe benefit costs for FY 05 reflect the October 1, 2004 effective date of the bill.

OLR Bill Analysis

sSB 396

AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS**SUMMARY:**

This bill (1) increases the registration fees for charitable organizations from \$20 to \$50 and for their paid solicitors from \$120 to \$250, (2) requires the Department of Agriculture and Consumer Protection (DACP) to publish advertisements about the contracts and pay of paid solicitors and fund-raising counsels before the start of and during each solicitation campaign, (3) increases reporting requirements for charities and paid solicitors, and (4) requires a fund-raising counsel's contract to state the amount of his compensation.

The law makes violations of the Solicitations of Charitable Funds Act, including the changes in this bill, punishable administratively through sanctions against a registration and criminally. By law, a person who commits a knowing violation may be punished with imprisonment of up to one year, a fine of up to \$5,000, or both.

EFFECTIVE DATE: October 1, 2004

FUND-RAISING CAMPAIGN NOTICES

The bill requires DACP, immediately before the start of a charitable fund-raising campaign, to publish an advertisement describing the contract between the charity and any paid solicitor or fund-raising counsel. A paid solicitor is an organization or person, other than an employee, paid to solicit charitable contributions. A fund-raising counsel is someone who is paid to manage or consult in relation to a charitable solicitation campaign, but who does not himself solicit funds. The law requires paid solicitors and fund-raising counsels to file with DACP copies of their contracts with charities before the start of the fund-raising campaigns described in the contracts.

The advertisement must include the percentage of the raised funds to be kept by the solicitor or counsel and be placed in a newspaper having substantial circulation in the town or towns where the

campaign will take place.

The solicitor or counsel must pay any publication costs as a fee when the contract is filed.

CHARITY'S REPORTING REQUIREMENTS

All registered charities must report annually on their finances to DACP. The bill requires the report to include an itemized list of all funds raised with the help of fund-raising counsels, paid solicitors, or both, and the percentage of these funds kept by or paid to the solicitors and counsels. It specifies that the information in a charity's annual report must be available to the public.

The bill requires charities to file quarterly reports that account for all expenditures. The reports must be filed within 30 days after the close of the quarter. The DACP commissioner must prescribe the report's form and content.

PAID SOLICITOR'S REPORTING REQUIREMENTS

The bill requires paid solicitors to report quarterly certain information that existing law requires them to keep available for inspection by DACP on request. The information relates to each solicitation campaign and is: (1) each contributor's name and address and the amount and date of each contribution; (2) the name and residence of each employee, agent, or anyone else involved in the solicitation; and (3) records of all income received and expenses incurred in the course of the solicitation campaign. The law provides that the department must not disclose contributors' names, addresses, contribution amounts, and dates except to the extent necessary for law enforcement purposes.

BACKGROUND

Legislative History

The Senate referred the bill (File 179) to the Finance, Revenue and Bonding Committee on March 31. It favorably reported a substitute on April 7 that reduced the fee increases for charities (from \$250 to \$50) and paid solicitors (from \$1,000 to \$250).

COMMITTEE ACTION

General Law Committee

Joint Favorable
Yea 19 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 35 Nay 9