



Senate

General Assembly

File No. 19

January Session, 2005

Senate Bill No. 946

Senate, March 7, 2005

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE SOLICITATION OF CHARITABLE FUNDS ACT.

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 Section 21a-190b of the general statutes is repealed and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 from passage*):

3 (a) Every charitable organization not exempted by section 21a-190d
4 shall annually register with the department prior to conducting any
5 solicitation or prior to having any solicitation conducted on its behalf
6 by others. Application for registration shall be made on forms
7 prescribed by the department and shall include payment of a fee of
8 [twenty] twenty-five dollars. Such application shall include: (1) A
9 registration statement, (2) an annual financial report for such
10 organization for the preceding fiscal year that is prepared in
11 accordance with the provisions of subsection (a) of section 21a-190c, as
12 amended by this act, and (3) an audited financial statement as required
13 by subsection (b) of said section 21a-190c. Two authorized officers of

14 the organization shall sign the registration [form] statement and shall
15 certify that the statements therein are true and correct to the best of
16 their knowledge. A chapter, branch or affiliate in this state of a
17 registered parent organization shall not be required to register
18 provided the [principal office of the] parent organization [is located in
19 this state and provided the parent organization] files a consolidated
20 annual [report] registration for itself and its chapter, branch or affiliate.
21 Each charitable organization shall annually renew its registration not
22 later than five months after the end of such organization's fiscal year.

23 (b) In the event the department determines that the application for
24 registration does not contain the documents required in subsection (a)
25 of this section or is not in accordance with the regulations adopted by
26 the commissioner pursuant to this chapter, the department shall notify
27 the charitable organization, in writing, of such noncompliance not later
28 than ten days after the department's receipt of such application for
29 registration. An application for registration shall be deemed to be
30 approved if the charitable organization is not notified of
31 noncompliance by the department not later than ten days after the
32 department's receipt of the application for registration. Any such
33 charitable organization may request a hearing on its noncompliant
34 status not later than seven days after receipt of such noncompliance
35 notice. Such hearing shall be held not later than seven days after the
36 department's receipt of such request and a determination as to the
37 organization's compliance status shall be rendered no later than three
38 days after such hearing.

39 (c) In addition to the application fee required pursuant to subsection
40 (a) of this section, a charitable organization shall pay a late fee of
41 twenty-five dollars for each month, or part thereof, that such
42 application for registration is late, except that such late fee shall not
43 include any month during which an extension of time was granted
44 pursuant to subsection (d) of this section.

45 (d) The commissioner may, upon written request and for good
46 cause shown, grant an extension of time, not to exceed one hundred

47 eighty days, for the filing of a charitable organization's annual financial
48 report. Any previous registration shall remain in effect during any
49 such extension period.

50 (e) In the event that a charitable organization fails to register in
51 accordance with the provisions of this section, such organization shall
52 include in its application for registration an annual financial report for
53 each of the previous years in which such organization was required to
54 file an application for registration or an annual financial report.

55 (f) Any charitable organization registered in accordance with this
56 section on September 30, 2005, shall be deemed to be registered
57 pursuant to this section until the last day of the fifth month after the
58 close of the fiscal year in effect on September 30, 2005.

59 Sec. 2. Section 21a-190c of the general statutes is repealed and the
60 following is substituted in lieu thereof (*Effective from passage*):

61 (a) Every charitable organization required to register pursuant to
62 section 21a-190b, as amended by this act, shall annually file with the
63 department, [a report] as part of such organization's application for
64 registration, a financial report for its most recently completed fiscal
65 year, which report shall include a financial statement and such other
66 information as the commissioner may require [. Such charitable
67 organization shall file such report not more than five months following
68 the close of its fiscal year, which report shall be accompanied by a fee
69 of twenty-five dollars] and shall be signed by two authorized officers
70 of the organization, one of whom shall be the chief fiscal officer of the
71 organization. Such officers shall certify that such report is true and
72 correct to the best of their knowledge. The commissioner shall
73 prescribe the form of the report and may prescribe standards for its
74 completion. The commissioner may accept, under such conditions as
75 said commissioner may prescribe, a copy or duplicate original of
76 financial statements, reports or returns filed by the charitable
77 organization with the Internal Revenue Service or another state having
78 requirements similar to the provisions of sections 21a-190a to 21a-190l,
79 inclusive, as amended by this act.

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

86 [(c) The commissioner may, upon written request and for good
87 cause shown, grant an extension of time, not to exceed three months,
88 for the filing of such report.

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

91 [(e)] (c) Every charitable organization required to file an annual
92 report and every charitable organization subject to the provisions of
93 subdivision (6) of section 21a-190d shall keep true fiscal records which
94 shall be available to the department for inspection upon request. Such
95 organization shall retain such records for no less than three years after
96 the end of the fiscal year to which they relate.

97 Sec. 3. Section 21a-190h of the general statutes is repealed and the
98 following is substituted in lieu thereof (*Effective from passage*):

99 It shall be a violation of sections 21a-190a to 21a-190l, inclusive, as
100 amended by this act, for: (1) Any person to misrepresent the purpose
101 or beneficiary of a solicitation; (2) any person to misrepresent the
102 purpose or nature of a charitable organization; (3) any charitable
103 organization or any person engaged in the conduct of the affairs of a
104 charitable organization to engage in any financial transaction which is
105 not related to the accomplishment of its charitable purpose, or which
106 jeopardizes or interferes with the ability of the charitable organization
107 to accomplish [its] such organization's charitable purpose; (4) any
108 charitable organization to expend an unreasonable amount of money
109 for solicitation or management; (5) any person to use or exploit the fact
110 of registration so as to lead the public to believe that such registration
111 constitutes an endorsement or approval by the state; (6) any person to

112 misrepresent that any other person sponsors or endorses a solicitation;
 113 (7) any person to use the name of a charitable organization, or to
 114 display any emblem, device or printed matter belonging to or
 115 associated with a charitable organization without the express written
 116 permission of the charitable organization; (8) any charitable
 117 organization to use the name which is the same as or confusingly
 118 similar to the name of another charitable organization unless the latter
 119 organization shall consent in writing to its use; (9) any charitable
 120 organization to represent itself as being associated with another
 121 charitable organization without the express written acknowledgment
 122 and endorsement of such other charitable organization; (10) any
 123 person to make any false or misleading statement on any document
 124 required by sections 21a-190a to 21a-190l, inclusive, as amended by
 125 this act; (11) any person to fail to comply with the requirements of
 126 sections 21a-190b to 21a-190g, inclusive, as amended by this act; (12)
 127 any charitable organization to use the services of an unregistered fund-
 128 raising counsel or paid solicitor; (13) any fund-raising counsel or paid
 129 solicitor to perform any services on behalf of an unregistered
 130 charitable organization; or (14) any person to appropriate any property
 131 of a charitable organization for a private use.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	21a-190b
Sec. 2	<i>from passage</i>	21a-190c
Sec. 3	<i>from passage</i>	21a-190h

GL *Joint Favorable*

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 06 \$	FY 07 \$
Consumer Protection, Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Dept.	GF - Revenue Gain	Less than \$50,000 annually	Less than \$50,000 annually

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill sets an annual registration fee of \$25 while eliminating the \$25 annual report filing fee and the one-time \$20 registration fee for charitable organizations. In FY 04, the Department of Consumer Protection (DCP) collected \$7,660 in registration fees from 383 charitable organizations. In FY 04, DCP also collected \$92,350 in report filing fees from 3,694 of the 4,066 charitable organizations registered in the state. Assuming that all 4,066 charitable organizations registered in the state comply with the annual registration fee of \$25, DCP would experience a minimal revenue gain.

The bill also establishes a \$25 late fee for each month, or part of a month, that a charity is late in renewing while eliminating the \$25 late fee for filing a report late. In FY 04, DCP collected \$26,050 in late report filing fees due to 1,042 late reports. Assuming that a comparable amount of charitable organizations are late in renewing as were late in filing reports in FY 04, this would result in a minimal revenue gain for DCP.

The bill expands the scope of the Solicitation of Charitable Funds Act, which criminalizes certain behavior. It could therefore increase

the number of individuals penalized by the imposition of a fine of up to \$5,000 and/or a period of imprisonment for up to one year. It is anticipated that few additional offenders will be subject to penalties since few prosecutions are made under the Act currently. Consequently, any revenue gain from criminal fines would be minimal.

OLR BILL ANALYSIS

SB 946

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

This bill requires charities to register annually rather than once. By law, charities must register with the Department of Consumer Protection (DCP) before raising funds. The bill deems any charity registered on September 30, 2005 to be registered until the last day of the fifth month after the close of its fiscal year in effect on September 30, 2005.

The bill prohibits anyone engaged in conducting a charity's affairs from engaging in a financial transaction that is unrelated to the accomplishment of the charity's purpose or which jeopardizes or interferes with a charity's ability to accomplish its purpose. A charity is prohibited from engaging in such transactions. Further, the bill prohibits anyone from appropriating a charity's property for private use. The penalties for violating the Solicitation of Charitable Funds Act include a fine of up to \$5,000, up to one year in prison, or both and registration suspension or revocation.

EFFECTIVE DATE: Upon passage

ANNUAL REGISTRATION

The bill sets an annual registration fee of \$25 and eliminates (1) the \$25 annual report filing fee and (2) the one-time \$20 registration fee.

It requires the registration application to include (1) a registration statement and (2) an annual financial report for its preceding fiscal year prepared in accordance with charitable solicitation law requirements for all registered charities. If the charity's gross revenue exceeded \$200,000 in its previous fiscal year, it must also file an audited financial statement for that year.

The bill requires charities to renew their registrations within five months after the end of their fiscal year. Under current law, the deadlines for submitting an annual financial report and an audited financial statement are five months after the end of the year.

It expands the exemption for chapters, branches, or affiliates. Under the bill, chapters, branches, or affiliates are exempt from registration if the parent organization files a consolidated registration application. Under current law, chapters, branches, or affiliates are exempt from filing an annual report if the parent organization files a consolidated annual report and its principal office is located in Connecticut.

APPLICATION DETERMINATION

If the department determines that the application does not contain required documents or does not comply with the implementing regulations, the bill requires DCP to notify the applicant in writing of the fact by the 10th day after DCP received the application. Under the bill, an applicant is deemed approved if the charity is not notified of the noncompliance by the 10th day after DCP received the application. Apparently, the bill gives the department 10 days to review the application and send written notice in time for the charity to receive it by the 10th day after DCP received the application.

The bill authorizes a charity that received such a notice the right to request a hearing on its status. The request must be made by the seventh day after it received the notice. The bill requires DCP to hold a hearing within seven days after receiving a request and to make a determination on the status within three days after the hearing.

LATE RENEWALS

The bill sets a \$25 late fee for each month, or part of a month, that a charity is late in renewing instead of the \$25 late fee current law imposes for each report that is not filed on time. It increases, from three months to 180 days, the time that the DCP commissioner may extend the deadline for filing an annual report for good cause after receiving a written request. Under the bill, a prior registration remains in effect during the extension and the imposition of the late fee is suspended.

FAILURE TO RENEW

The bill requires a charity that fails to register to include in its application an annual financial report for each of the previous years in which it was required to either register or file an annual financial report.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report

Yea 17 Nay 0