

COMMONWEALTH OF PENNSYLVANIA

November 17, 2015

Public Hearing

House Bill 1240

Held by Pennsylvania House Commerce Committee

Written Statement of

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House Commerce Committee:

As the Standards for Excellence Director at the Pennsylvania Association of Nonprofit Organizations (PANO), we have a common goal of ensuring that charitable nonprofit organizations and those working with these entities operate at the highest level of ethics and integrity. I am honored to testify about the issues that House Bill 1240 addresses as well as some implications for charitable organizations that we ask to be considered in finalizing the legislation.

HOUSE BILL 1240

House Bill 1240 seeks to address instances of charitable organizations contracting with professional solicitors and receiving only a small percentage of monies raised by the professional solicitor. It is also aimed at curing other abuses which occur in the area of fundraising.

We want to note that these instances are far from constituting anywhere close to a majority of work of most professional solicitors and charitable organizations. Much more than a majority are highly ethical and accountable professionals who use their skills to help benefit the missions of charitable organizations. That said, we are in agreement that there needs to be more disclosure to lessen instances of professional solicitors seeming to benefit more than the charitable organizations as well as charities that take advantage of "disaster" to raise monies that may not be solely directed to the disaster needs.

We are keenly aware of the December 2014 Tampa Bay Times "50 Worst Charities" articles citing charities that spend the most on fundraising activities and the least on direct aid to mission related activities. Three of these organizations are in Pennsylvania and it behooves legislators to look into these instances and determine if there is proven abuse of dollars.

We have also examined the Bureau of Corporations and Charitable Organizations (BCCO) 2013-2104 Annual Report issued by then Secretary of the Commonwealth, Carol Aichele. This report provides a detailed analysis of amounts received by the charitable organization and the amounts paid to a professional solicitor. We caution against making judgments on professional solicitors based solely on this report. If an organization is in its first year of a contract with a professional solicitor or deals with a particularly unpopular cause, the return to the charity may likely be very low. We agree that with more disclosure the public can make its own determinations.

The above article and report as well as other media publications give cause for action to be taken to ensure that the maximum amount of the public's hard earned dollars are stewarded to give the most benefit to our communities.

For purposes of public education, we note that the BCCO currently regulates the activities of both professional fundraising counselors (those who assist in preparing and developing fundraising activities for the charity with the charity making the official "ask") and professional solicitors (those that make the actual "ask" for contributions).

EXISTING NON-REGULATORY GUIDELINES FOR CHARITABLE NONPROFITS AND FUNDRAISERS

We also note that both PANO and the Association of Fundraising Professionals (AFP) work diligently to ensure that charitable organizations, fundraising counselors and solicitors go beyond existing regulations by creating higher ethical standards.

PANO's Standards for Excellence Ethics and Accountability Program cites that "On average, over a five year period, a nonprofit should realize revenues from fundraising that are at least three times the amount spent on conducting them."

AFP holds all of its members (fundraising counselors, professional solicitors and nonprofit staff employed to do fundraising) to the high standards of never working on a commission, i.e., receiving a percentage of the funds raised.

While we constantly work toward greater self-regulation, we know we cannot control abuses on the part of individuals who may not have the best interest of the community at heart.

PANO'S POSITION

PANO supports legislation that attempts to curb abuses in solicitation of charitable contributions. We support that additional funding is needed to allow the regulatory body overseeing compliance, the BCCO, to perform the functions needed. We believe that over the years that the BCCO has been underfunded and thus abuses that could have been avoided were not due to the lack of resources to provide oversight.

PANO believes it is important to publicize the results of professional solicitors so that the public can make a judgment on whether they want to respond to an appeal. The U.S. Supreme Court has made clear that there can be no specific limit on the cost of fundraising efforts. Some causes are considerably more expensive to raise funds for than others. Publicity can help the public make judgments on the issue. Therefore it will be helpful if the Department posts all of the reports.

PANO applauds having a dedicated fund for enforcement. We want to emphasize that such funds should be spent primarily on enforcing the fraud provisions of the law. This fund needs to be spent on finding, proving and publicizing cases of fraud.

PANO has no objection to requiring additional reporting for new organizations that arise to raise funds to respond to disasters.

PANO also supports that the burdens created in enacting this legislation do not outweigh the benefits to the public and to charitable organizations.

CONCERNS

Annual Registration Fees

Of greatest concern is the immediate 100% increase in the registration fees for charitable nonprofit organizations. For example while going from a \$100 annual fee to a \$200 registration may not seem significant to the outside world, most nonprofits routinely stretch their finances to meet budgetary needs and may be unprepared to implement that increase within one year.

According to the 2013-2014 BCCO Annual Report, there were 11,600 charitable organization registered in PA. Of those, 435 utilized professional solicitors. This can be translated into approximately 96 percent of PA charities not using professional solicitors. While we all need to share in our common need for oversight we feel that this puts too much immediate undue burden on the 96%.

We also represent the concern of the Association of Fundraising Professional, Central PA Chapter, that raising the professional fundraising counselor fee to \$500 will prohibit some excellent fundraisers who provide fundraising services on a part time basis from registering and thus losing a source of income if they want to remain compliant with the law. We repeat that the majority of fundraising professionals are highly ethical individuals.

To address the above concerns we suggest implementing an increase in registrations fees on a gradual basis in order for charities and fundraisers to be able to adjust their budgets to the increase. For charities we recommend that increase be 25% per year until the 100% increase is met.

We ask that input from the Association of Fundraising Professional be sought to meet the concerns of their members.

Given that currently many nonprofits are not being paid for services due to the state budget impasse, we strongly suggest the increase in fees be postponed until nonprofits have had time to recover.

Prohibited Conduct

We agree that some type of prohibition needs to be given for anyone convicted of a felony or misdemeanor involving dishonesty or other charitable solicitation misconduct. We ask whether any consideration can be given to providing a "sunset rule" on this provision such as no conviction within 20 year of the registration. It seems harsh to penalize a person for life because of a generation-old crime.

Thank you for allowing us to share our support, concerns and suggestions.