

SUBJECT: Registration and reporting by charitable organizations

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 8 ayes — Brady, Corte, Crabb, Eiland, Giddings, Janek, Rhodes, Solomons
0 nays
1 present, not voting — Brimer

SENATE VOTE: On final passage, May 11, — voice vote

WITNESSES: For — None
Against — None
On — Jan Soifer, Attorney General's Office

DIGEST: SB 1214 would require the registration and reporting of certain charitable organizations and would impose a civil penalty on those charities that do not register or report. Registration information would include the charitable organizations legal name, the charity's employer identification number, the names and addresses of the officers of the charity, the date the charity was incorporated, information about the charity's tax exempt status, the charity's purpose, the governmental agencies from which the charity has received funds and information about the charity's solicitation procedures and tax returns.

Churches, institutions of higher education, nonprofit hospitals, private foundations, and civic organizations that have gross annual receipts of under \$25,000 — such as civic clubs and fraternal organizations — would not be required to register. However, none of these charities would be exempt from registration if they hired a commercial solicitor.

SB 1214 would require charitable organizations to file an initial registration statement with the attorney general at least 10 working days before doing business in the state. Registration would not imply endorsement of the charity by the state or by the attorney general. The charity's registration

would expire on the 15th day of the fifth month following the close of the charity's fiscal year.

The charities would file renewal registration statements on the same forms used for the initial registration statements and would include the name and employer identification number of the charity and changes to the information previously submitted. The registration forms would be have to be approved by the attorney general.

A filing fee of up to \$75 would be required to accompany the initial registration statement and all renewal statements.

The fees collected by the attorney general would be dedicated to the administration and enforcement of the provisions of the bill and would also be used to educate the public about charitable organizations. The attorney general would establish and operate a toll-free telephone service which the public could use to obtain information about a registered charitable organization or to report an alleged violation.

The attorney general would be required to establish and maintain a register for charitable organization documents and would have to make all filed documents available to the public except for those documents that identify donors.

Each charitable organization that is required to file a registration statement would also be required to keep accurate records of its activities. These records would be retained for a period for at least three years and would be made available for inspection at the charity's place of business if authorized personnel of the attorney general so requested.

A charitable organization that is not in compliance with the bill would be notified of its noncompliance by the attorney general. Noncompliance includes the failure to file any documents required by this bill or the filing of incomplete and inaccurate documents. If the charity fails to file complete documents within 30 days of the date of the attorney general's notice or if it knowingly files materially inaccurate documents then the charity would be in violation of this bill.

The attorney general would be authorized to institute an action against a person operating a charitable organization that failed to comply with this bill. The attorney general's actions could include obtaining an injunction to prevent the person from continuing the violation, cancelling or suspending the charity's registration, restraining a person from doing business the state while violating this bill's provisions, and imposing civil penalties of not less than \$25,000 per violation. A person operating a charity that violates an injunction issued by the attorney general would be liable to the state for a civil penalty of not less than \$100,000.

The secretary of state would be an agent for service of process or complaint on a nonresident charitable organization. An action brought under this bill would be brought in a court of competent jurisdiction in Travis County, in the county in which the charitable organization has its principal place of business or in a county in which the solicitation occurred.

The attorney general would be required to annually appoint an advisory committee — consisting of representatives of charitable organizations — which would advise the attorney general in preparing rules, procedures and forms authorized by this bill. The advisory committee would also assist the attorney general in developing a public education program.

The changes in law made by SB 1214 would apply only to a solicitation that takes place on or after the bill's effective date, September 1, 1995.

**SUPPORTERS
SAY:**

Texas — unlike 43 other states — has no uniform reporting or registration requirements for charities or charity fund raisers. As a result, there is no single entity to contact to obtain information about organizations that claim to be charities or about certain charitable organizations' fund raising activities.

SB 1214 would help protect the public from fraudulent organizations claiming to be charities by outlining and enforcing registration and reporting requirements for charitable organizations and allowing the attorney general an opportunity to crack down on fly-by-night, fraudulent charities that fail to register and report. This would benefit both the public and legitimate charitable organizations. Smaller organizations that raise less the \$25,000 annually would be exempt from the registration and reporting requirements, unless they hired a commercial solicitor.

OPPONENTS
SAY:

The registration, reporting and recordkeeping provisions in this bill could impose an onerous burden on smaller, legitimate charitable organizations. Those charities without sophisticated recordkeeping could inadvertently violate the bill's requirements and face legal action by the attorney general.