ASSEMBLY, No. 380

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman EDWARD H. THOMSON
District 30 (Monmouth and Ocean)

Co-Sponsored by:
Assemblyman Johnson

SYNOPSIS

Exempts certain volunteer emergency service organizations from charitable contribution filing fees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning exemptions from certain charitable organization registration filing fees and amending P.L.1994, c.16.

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

1. Section 7 of P.L.1994, c.16 (C.45:17A-24) is amended to read as follows:

7. a. Every charitable organization operating or soliciting within this State, except for those provided for in section 8 of this act or exempt pursuant to section 9 of this act, shall file a long form registration statement with the Attorney General.

b. The long form shall contain the following:

(1) The name of the organization and any other name or names under which it intends to solicit contributions and the purposes for which it was organized;

(2) The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee and whether the person has been adjudged liable in an administrative or civil action, or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purposes of this paragraph:

(a) a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction;

(b) "each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization; and

(c) a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer, director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or federal agency.

(3) A copy of the most recent Internal Revenue Service Form 990 and Schedule A (990) for every registrant if the organization filed these forms;

(4) A clear description of the specific programs and charitable purpose for which contributions will be used and a statement whether such programs are planned or are in existence;

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

Matter underlined thus is new matter.

(5) A statement disclosing pertinent information concerning whether any of the organization's officers, directors, trustees or principal salaried executive staff employees as defined in subparagraph (b) of paragraph (2) of subsection b. of this section:

(a) Are related by blood, marriage or adoption to each other or to any officers, agents or employees of any fund raising counsel or independent paid fund raiser under contract to the organization, or are related by blood, marriage or adoption to any chief executive employee, any other employee of the organization with a direct financial interest in the transaction, or any partner, proprietor, director, officer, trustee, or to any shareholder of the organization with more than a two percent interest of any supplier or vendor providing goods or services to the organization and, if so, the name and business and home address and telephone number of each related party; or

(b) Have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser under contract to the organization or any supplier or vendor providing goods or services to the organization and, if so, the name and business address and telephone number of each interested party.

(6) The amount of any grant or financial assistance from any agency of government in its preceding fiscal year;

(7) A statement setting forth the place where and the date when the organization was legally established and the form of the organization;

(8) The principal street address and telephone number of the organization and the address and telephone number of each office in this State. If the organization does not maintain an office in this State, the name and address of the individual having custody of its financial records pertaining to operations or solicitations in this State shall be disclosed;

(9) The name, street address and telephone number of each affiliate which shares in the contributions or other revenue raised in this State;

(10) The date when the organization's fiscal year ends;

(11) A statement whether:

(a) The organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

(b) The organization is or has ever been enjoined in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets;

(c) The organization's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension or revocation; and

(d) The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or federal agency or officer;

(12) Whether the organization intends to solicit contributions from the general public; and

(13) Any other information as may be prescribed by rules adopted by the Attorney General. In prescribing the requirements of the long form, the Attorney General shall permit a charitable organization to incorporate by reference any information reported by the organization on its Service Form 990 and Schedule A (990).

c. With initial registration only, every charitable organization required to file a long form registration shall also file a copy of the organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws, and a statement setting forth the organization's tax exempt status with copies of federal or state tax exemption determination or exemption ruling letters; provided that any changes in the accuracy of this information shall be reported to the Attorney General pursuant to subsection e. of section 14 of this act.

d. (1) Every charitable organization required to file a long form registration shall file an annual financial report with the Attorney General. The annual financial report shall include: a balance sheet; a statement of support revenue, expenses and changes in fund balance; a statement of functional expenses at least divided into program, management, general, and fund raising; and such other information as the Attorney General shall by rule require.

(2) The annual financial report of every charitable organization which received gross revenue in excess of $250,000, or any greater amount that the Attorney General may prescribe by regulation during its most recently completed fiscal year shall be accompanied by: (a) a financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting approved for use by the Attorney General by regulation which has been audited in accordance with generally accepted auditing standards by an independent certified public accountant; and (b) any management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the organization.

The annual financial reports of all organizations receiving more than $25,000 but less than $250,000, or any greater amount that the Attorney General may prescribe by regulation shall be certified by the organization's president or other authorized officer of the organization's governing board and at the request of the Attorney General, the organization shall submit: (a) a financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting approved for

use by the Attorney General by regulation which has been audited in accordance with generally accepted auditing standards by an independent certified public accountant; and (b) any management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the organization.

(3) The Attorney General may accept a copy of a current financial report previously prepared by a charitable organization for another state agency or officer in compliance with the laws of that state, provided that the report filed with the other state agency or officer shall be substantially similar in content to the report required by this subsection.

(4) An independent member agency of a federated fund raising organization shall independently comply with the provisions of this subsection.

e. In order to register its qualified local units pursuant to subsection d. of section 9 of this act, a parent organization registered pursuant to this section shall include with its initial registration and annual renewal statement a separate statement that provides the following:

(1) The name, principal street address, and phone number of all local units within this State that it is registering;

(2) The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year; and

(3) A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements of subsection d. of section 9 of this act.

f. Any management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the organization submitted pursuant to paragraph (2) of subsection d. of this section shall not be considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), shall not be made available for public inspection nor used for a purpose inconsistent with P.L.1994, c.16 (C.45:17A-18 et seq.), and shall be removed from the record in the custody of the Attorney General at such time that such information is no longer necessary for the enforcement of that act. The records required pursuant to this section shall be maintained for a period of at least three years after the end of the period of time to which they relate.

<u>g. A non-profit corporation, association, or organization located in this State which is regularly engaged in providing emergency medical care, rescue services, the transport of patients, or fire protection services, including part-paid fire departments and fire districts and part-paid emergency service providers, shall not be</u>

charged a fee by the Attorney General for filing a long form registration statement as required by this section.

(cf: P.L.2005, c.283, s.3)

2. Section 8 of P.L.1994, c.16 (C.45:17A-25) is amended to read as follows:

8. a. The following charitable organizations shall be required to file a short form registration on forms prescribed by the Attorney General:

(1) Charitable organizations or organizations engaging in a charitable fund raising campaign which do not receive gross contributions in excess of $25,000 during a fiscal year, if all of their functions including fund raising activities are carried on by volunteers, members, officers or persons who are not compensated for soliciting contributions; except that, if the gross contributions, whether or not all is received by any charitable organization during any fiscal year, are in excess of $25,000 it shall, within 30 days after the date on which it shall have received the contributions, register with and report to the Attorney General as required by section 7 of this act;

(2) Fraternal, patriotic, social or alumni organizations, historical societies, and similar organizations organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, when solicitation of contributions is confined to their membership and solicitation is performed by members of that organization;

(3) Persons requesting any contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary;

(4) Any local post, camp, chapter or similarly designated element, or a county unit of that element, of a bona fide veterans' organization which issues charters to the local elements throughout this State, or to any veterans' organization chartered under federal law or to any service foundation of such an organization recognized in its bylaws.

b. The short form shall contain the following:

(1) Name and street address of the organization;

(2) The name of any independent paid fund raiser, fund raising counsel or commercial co-venturer the charitable organization has engaged;

(3) The purpose for which the charitable organization is organized;

(4) The purposes for which the funds are raised;

(5) The tax status of the charitable organization;

(6) The reason the organization is eligible to file a short form registration;

(7) A copy of the organization's most recent Internal Revenue Service Form 990 and Schedule (A) 990 if the organization filed these forms;

(8) The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee and whether the person has been adjudged liable in an administrative or civil action, or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purposes of this paragraph:

(a) a plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction;

(b) "each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization; and

(c) a judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer, director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or federal agency.

(9) A statement whether:

(a) The organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

(b) The organization is or has ever been enjoined in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets;

(c) The organization's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension or revocation; and

(d) The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or federal agency or officer; and

(10) Any other information as may be prescribed by rules adopted by the Attorney General.

c. In order to register its qualified local units pursuant to subsection d. of section 9 of this act, a parent organization registered pursuant to this section shall include with its initial registration, a copy of the parent organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws, and

shall include with its initial registration and annual renewal statement a separate statement that provides the following:

(1) The name, principal street address, and phone number of all local units within this State that it is registering;

(2) The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year;

(3) A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements of subsection d. of section 9 of this act.

d. Nothing in subsection c. of this section shall be construed to require a parent organization to register any or all of its local units.

e. A non-profit corporation, association, or organization located in this State which is regularly engaged in providing emergency medical care, rescue services, the transport of patients, or fire protection services, including part-paid fire departments and fire districts and part-paid emergency service providers, shall not be charged a fee by the Attorney General for filing a short form registration statement as required by this section.

(cf: P.L.2005, c.283, s.4)

3. This act shall take effect on the first day of the fourth month after enactment.

STATEMENT

The bill would exempt certain volunteer emergency service organizations from paying registration filing fees under the under the State's "Charitable Registration and Investigation Act."

Under current law, charitable organizations, other than religious organizations and schools, which raise over $10,000 in a fiscal year are required to register with the Division of Consumer Affairs in the Department of Law and Public Safety as charitable organizations. Pursuant to regulations promulgated under the act, these organizations are charged a fee for this registration.

Charitable organizations which raise $25,000 or less in a fiscal year, whether they are required to register or voluntarily register under the act, are required to file a short form registration. The fee charged by the division for filing a short form registration is $30. Charitable organizations that raise more than $25,000 are required to file a long form registration. The fee charged by the division for filing a long form registration is $60 if the organization raised $100,000 or less. The long form registration fee for organizations which raise more than $100,000, but less than $500,000 is $150. If the organization raises over $500,000 the fee is $250.

Under this bill, non-profit corporations, associations, or organizations located in this State which are regularly engaged in providing emergency medical care, rescue services, the transport of patients, or fire protection services, including part-paid fire departments and fire districts and emergency service providers, would be exempt from paying these filing fees.