

SENATE, No. 2533

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Concerns certain annual filings by nonprofit corporations and charitable organizations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning annual filings by nonprofit corporations and
2 charitable organizations and amending N.J.S.15A:4-5 and
3 P.L.1994, c.16.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.15A:4-5 is amended to read as follows:

9 15A:4-5. a. Every domestic corporation and every foreign
10 corporation authorized to conduct activities in this State shall file in
11 the office of the State Treasurer, within the time prescribed by this
12 section, an annual report, executed on behalf of the corporation,
13 setting forth:

14 (1) the name of the corporation and, in the case of a foreign
15 corporation, the jurisdiction of its incorporation;

16 (2) the address, including the actual location as well as postal
17 designation, if different, of the registered office of the corporation
18 in this State, and the name of its registered agent in this State at that
19 address, and, if a foreign corporation, the address of its main or
20 headquarters office; and

21 (3) the names and addresses of the trustees and the officers of
22 the corporation, which addresses shall be either the residence
23 address of that person or other address where that person regularly
24 receives mail and which is not the address of the corporation.

25 b. The State Treasurer shall designate a date for filing annual
26 reports for each corporation required to submit a report pursuant to
27 this section and shall annually notify the corporation of the date so
28 designated not less than 60 days prior to that date. The corporation
29 shall file the report within 30 days before or within 30 days after the
30 date so designated. If the date so designated is not more than six
31 months after the date on which an annual report pursuant to the
32 provisions of prior law was filed or on which the certificate of
33 incorporation became effective, the corporation shall not be
34 required to file an annual report until one year after the first
35 occurrence of the date so designated.

36 c. If the report is not filed for two consecutive years, the
37 certificate of incorporation of the corporation or the certificate of
38 authority of a foreign corporation shall, after written demand for the
39 reports by the State Treasurer by certified mail addressed to the
40 corporation at the last address appearing of record in the office of
41 the State Treasurer, be revoked for the failure to file reports. No
42 corporation shall be subject to the revocation of its certificate of
43 incorporation or its certificate of authority if it shall, within 60 days
44 after the written demand, file the reports required by law and pay to
45 the State Treasurer the fee provided by law for the filing of each

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.

1 report. Any corporation having its certificate of incorporation or its
2 certificate of authority revoked may cause a reinstatement of the
3 certificate upon payment to the State Treasurer of: the fee then
4 payable upon the filing of the certificate of incorporation; a current
5 annual report fee; and payment of a reinstatement filing assessment
6 as set forth in N.J.S. 15A:15-1. The reinstatement relates back to
7 the date of issuance of the proclamation revoking the certificate of
8 incorporation or the certificate of authority and shall validate all
9 actions taken in the interim. In the event that in the interim the
10 corporate name has become unavailable, the State Treasurer shall
11 issue the certificate upon, in the case of a domestic corporation, the
12 filing of an amendment to its certificate of incorporation to change
13 the corporate name to an available name, and, in the case of a
14 foreign corporation, the filing of an amended certificate of authority
15 adopting an alternate name. The State Treasurer shall provide the
16 forms necessary to effect annual report reinstatements.

17 d. The State Treasurer shall furnish annual report forms, shall
18 keep all the reports and shall prepare an alphabetical index thereof.
19 The reports and index shall be open to public inspection at proper
20 hours.

21 e. The State Treasurer shall allow any annual report that is
22 designated to be filed while Executive Order 103 of 2020 remains
23 in effect, or up to 180 days after its conclusion, to be filed up to 180
24 days after the conclusion of that executive order, without requiring
25 the corporation to pay any penalty or additional fee other than the
26 annual filing fee. The State Treasurer shall not require any
27 corporation to pay its filing fee in advance of the date the annual
28 report is filed pursuant to this subsection.

29 (cf: P.L.2019, c.149, s.4)

30

31 2. Section 6 of P.L.1994, c.16 (C.45:17A-23) is amended to
32 read as follows:

33 6. a. A charitable organization, unless exempted from
34 registration requirements pursuant to section 9 of this act, shall file
35 a registration statement with the Attorney General on forms
36 prescribed by the Attorney General.

37 b. It shall be unlawful for any charitable organization to solicit
38 contributions or have contributions solicited in its behalf before the
39 Attorney General has been given the opportunity to review the
40 registration statement pursuant to section 5 of this act. A renewal
41 statement must be filed annually within six months after the close
42 of the charitable organization's fiscal year. For good cause shown,
43 the Attorney General may extend the time for the annual filing of
44 the renewal statement and financial report for a period not to exceed
45 180 days, during which time the previous registration shall remain
46 in effect. The request for an extension shall be in writing and
47 received by the Attorney General before the filing deadline.

1 c. All registration statements shall be signed by two authorized
2 officers, including the chief fiscal officer of the organization, who
3 shall certify that information contained in the registration
4 statements is correct.

5 d. The Attorney General shall prescribe all fees for the filing of
6 all registration statements according to the provisions of this act.
7 The fees for the filing of registration statements by charitable
8 organizations may be graduated based upon the amount of
9 contributions received during the previous fiscal year. A parent
10 organization filing on behalf of one or more local units shall pay a
11 single annual registration fee for itself and a fee for each local unit
12 included in the registration statement.

13 e. The Attorney General shall allow any annual filing of a
14 renewal statement and financial report that is scheduled to be filed
15 while Executive Order 103 of 2020 remains in effect, or up to 180
16 days after its conclusion, to be filed up to 180 days after the
17 conclusion of that executive order, without requiring the
18 organization to pay any penalty or additional fee other than the
19 annual filing fee. The Attorney General shall not require any
20 organization to pay a filing fee in advance of the date the renewal
21 statement and financial report are filed pursuant to this subsection.

22 (cf: P.L.1994, c.16, s.6)

23

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

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

30 b. The long form shall contain the following:

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

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

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

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

46 (c) a judgment of liability in an administrative or civil action
47 shall include, but not be limited to, any finding or admission that
48 the officer, director, trustee or principal salaried executive staff

1 employee engaged in an unlawful practice or practices related to the
2 solicitation of contributions or the administration of charitable
3 assets, regardless of whether that finding was made in the context of
4 an injunction, a proceeding resulting in the denial, suspension or
5 revocation of an organization's registration, consented to in an
6 assurance of voluntary compliance or any similar order or legal
7 agreement with any state or federal agency.

8 (3) A copy of the most recent Internal Revenue Service Form
9 990 and Schedule A (990) for every registrant if the organization
10 filed these forms;

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

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

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

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

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

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

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

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

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

2 (11) A statement whether:

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

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

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

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

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

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

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

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

41 (2) The annual financial report of every charitable organization
42 which received gross revenue in excess of ~~【\$250,000】~~ \$1,000,000,
43 or any greater amount that the Attorney General may prescribe by
44 regulation during its most recently completed fiscal year shall be
45 accompanied by: (a) a financial statement prepared in accordance
46 with generally accepted accounting principles or other
47 comprehensive basis of accounting approved for use by the
48 Attorney General by regulation which has been audited in

1 accordance with generally accepted auditing standards by an
2 independent certified public accountant; and (b) any management
3 letters prepared by the auditor in connection with the audit
4 commenting on the internal accounting controls or management
5 practices of the organization.

6 The annual financial reports of all organizations receiving more
7 than \$25,000 but less than **[\$250,000]** \$1,000,000, or any greater
8 amount that the Attorney General may prescribe by regulation shall
9 be certified by the organization's president or other authorized
10 officer of the organization's governing board and at the request of
11 the Attorney General, the organization shall submit: (a) a financial
12 statement prepared in accordance with generally accepted
13 accounting principles or other comprehensive basis of accounting
14 approved for use by the Attorney General by regulation which has
15 been audited in accordance with generally accepted auditing
16 standards by an independent certified public accountant; and (b) any
17 management letters prepared by the auditor in connection with the
18 audit commenting on the internal accounting controls or
19 management practices of the organization.

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

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

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

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

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

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

44 f. Any management letters prepared by the auditor in
45 connection with the audit commenting on the internal accounting
46 controls or management practices of the organization submitted
47 pursuant to paragraph (2) of subsection d. of this section shall not

1 be considered a public record under P.L.1963, c.73 (C.47:1A-1 et
2 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), shall not be made
3 available for public inspection nor used for a purpose inconsistent
4 with P.L.1994, c.16 (C.45:17A-18 et seq.), and shall be removed
5 from the record in the custody of the Attorney General at such time
6 that such information is no longer necessary for the enforcement of
7 that act. The records required pursuant to this section shall be
8 maintained for a period of at least three years after the end of the
9 period of time to which they relate.

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

11
12 4. This act shall take effect immediately.

13
14
15 STATEMENT

16
17 This bill concerns certain annual filings by nonprofit
18 corporations and charitable organizations.

19 The bill requires the State Treasurer to allow any annual report
20 for a nonprofit corporation that is designated to be filed while
21 Executive Order 103 of 2020 remains in effect, or up to 180 days
22 after its conclusion, to be filed up to 180 days after the conclusion
23 of that executive order, without requiring the corporation to pay any
24 penalty or additional fee other than the annual filing fee. The bill
25 also provides that the State Treasurer may not require any
26 corporation to pay its filing fee in advance of the date the annual
27 report is filed.

28 The bill requires the Attorney General to allow any annual filing
29 of a renewal statement and financial report for a charitable
30 organization that is scheduled to be filed while Executive Order 103
31 of 2020 remains in effect, or up to 180 days after its conclusion, to
32 be filed up to 180 days after the conclusion of that executive order,
33 without requiring the organization to pay any penalty or additional
34 fee other than the annual filing fee. The bill also provides that the
35 Attorney General may not require any organization to pay a filing
36 fee in advance of the date the renewal statement and financial report
37 are filed.

38 This bill also changes the threshold at which a charitable
39 organization must submit certain audited financial statements and
40 management letters, from gross revenue in excess of \$250,000, or
41 any greater amount that the Attorney General may prescribe by
42 regulation, to gross revenue in excess of \$1,000,000, or any greater
43 amount that the Attorney General may prescribe by regulation.