

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2079

By Committee on Judiciary

1-20

Proposed amendment
Requested by the Philanthropy Roundtable
Prepared by the Office of Revisor of Statutes
March 25, 2021

1 AN ACT concerning state officers; relating to certain powers, duties and
2 functions of the secretary of state and the attorney general; **charitable**
3 **organizations; increasing the fees for certain charitable**
4 **organizations; creating the charitable organizations fee fund;**
5 **relating to** the address confidentiality program; transferring duties to
6 the attorney general; amending K.S.A. 17-1759, 17-1763, 17-1764, 17-
7 1765, 17-1766, 17-1769, 17-1771, 17-1772, 46-236, 75-451, 75-452,
8 75-453, 75-454, 75-455, 75-456, 75-457 and 75-458 and K.S.A. 2020
9 **Supp. 17-1762 and** repealing the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 **New Section 1. There is hereby created in the state treasury the**
13 **charitable organizations fee fund. The attorney general shall remit all**
14 **moneys received pursuant to the charitable organizations and**
15 **solicitations act to the state treasurer in accordance with the**
16 **provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt**
17 **of each such remittance, the state treasurer shall deposit the entire**
18 **amount in the state treasury to the credit of the charitable**
19 **organizations fee fund. Moneys in the charitable organizations fee**
20 **fund shall be used by the attorney general to carry out the provisions**
21 **and purposes of the charitable organizations and solicitations act. All**
22 **expenditures from the charitable organizations fee fund shall be made**
23 **in accordance with appropriation acts upon warrants of the director**
24 **of accounts and reports issued pursuant to vouchers approved by the**
25 **attorney general or a person designated by the attorney general.**

26 **New Sec. 2. The attorney general shall have the legal custody of**
27 **all records, memoranda, writings, entries, prints, representations or**
28 **combinations thereof of any act, transaction, occurrence or event of**
29 **the secretary of state relating to the charitable organizations and**
30 **solicitations act.**

31 **Sec. 3. K.S.A. 17-1759 is hereby amended to read as follows: 17-**
32 **1759. ~~This act K.S.A. 17-1759 through 17-1776, and amendments thereto~~**
33 **and section 2, and amendments thereto, shall be known and may be cited**
34 **as the "charitable organizations and solicitations act."**

35 **Sec. 4. K.S.A. 2020 Supp. 17-1762 is hereby amended to read as**
36 **follows: 17-1762. The following persons shall not be required to**

1 (q) any charitable organization of employees of a corporation
2 whose principal gifts are made to an incorporated community chest,
3 united fund or united way, and whose solicitation is limited to such
4 employees;

5 (r) any community foundation or community trust to which
6 deductible contributions can be made by individuals, corporations,
7 public charities and private foundations, as well as other charitable
8 organizations and governmental agencies for the overall purposes of
9 the foundation or to particular charitable and endowment funds
10 established under agreement with the foundation or trust for the
11 charitable benefit of the people of a specific geographic area and
12 ~~which that~~ is a nonprofit organization exempt from federal income
13 taxation pursuant to section 501(a) of the internal revenue code of
14 1986, as in effect on the effective date of this act, by reason of
15 qualification under section 501(c)(3) of the internal revenue code of
16 1986, as in effect on the effective date of this act, and ~~which that~~ is
17 deemed a publicly supported organization and not a private
18 foundation within the meaning of section 509(a)(1) of the internal
19 revenue code of 1986, as in effect on the effective date of this act;

20 (s) any charitable organization ~~which that~~ does not intend to or
21 does not actually solicit or receive contributions from more than 100
22 persons;

23 (t) any charitable organization the funds of which are used to
24 support an activity of a municipality of this state;

25 (u) the junior league, including any local community organization
26 affiliated therewith; and

27 (v) any charitable organization that is an animal shelter licensed
28 pursuant to K.S.A. 47-1701 et seq., and amendments thereto.

29 Sec. 5. K.S.A. 17-1763 is hereby amended to read as follows: 17-
30 1763. (a) Except for charitable organizations exempt under K.S.A. 17-
31 1762, and amendments thereto, no charitable organization shall solicit
32 funds in this state, nor employ a professional fund raiser to solicit
33 funds in this state, for any charitable purpose, unless such
34 organization has filed ~~with the office of the secretary of state of the state~~
35 ~~of Kansas~~; a registered statement *with the attorney general* prior to
36 solicitation.

37 (b) ~~The secretary of state~~ *attorney general* shall prescribe
38 registration forms ~~which that~~ shall be signed and sworn to by two
39 authorized officers of the organization, including the chief fiscal
40 officer, and ~~which~~ shall include the following information about such
41 organization's activities in this state:

42 (1) The name of the organization and the name or names under
43 which it intends to solicit;

- 1 (2) the purpose for which such organization was organized;
- 2 (3) the principal mailing address and street address of the
3 organization and the mailing addresses and street addresses of any
4 offices in this state;
- 5 (4) the names and mailing addresses and street addresses of any
6 subsidiary or subordinate chapters, branches or affiliates in this state;
- 7 (5) the place where and the date when the organization was
8 legally established, the form in which such organization is organized
9 and a reference to any determination of such organization's tax-
10 exempt status, if any, under the federal internal revenue code of 1986;
- 11 (6) the names and mailing addresses and street addresses of the
12 officers, directors, trustees and principal salaried employees of the
13 organization;
- 14 (7) the name and mailing address and street address of the person
15 having custody of such organization's financial records;
- 16 (8) the names of the individuals or officers of the organization
17 who will have responsibility for the custody of the contributions;
- 18 (9) the names of the individuals or officers of the organization
19 who will have responsibility for the distribution of the contributions;
- 20 (10) the names of the individuals or officers of the organization
21 who will have responsibility for the conduct of solicitation activities;
- 22 (11) the general purposes for which the organization intends to
23 solicit contributions;
- 24 (12) a statement indicating whether the organization intends to
25 solicit contributions directly or have such solicitation done on such
26 organization's behalf by others and naming any professional fund
27 raiser the organization intends to use;
- 28 (13) a statement indicating whether the organization is
29 authorized by any other governmental authority to solicit
30 contributions and whether such organization is or has ever been
31 enjoined by any court from soliciting contributions;
- 32 (14) the cost of ~~fund raising~~ *fundraising* incurred or anticipated to
33 be incurred by the organization, including a statement of such costs as
34 a percentage of contributions received; and
- 35 (15) a copy of the federal income tax return of the charitable
36 organization, if the charitable organization is required to file such;
37 otherwise a financial statement covering complete disclosure of the
38 fiscal activities of the organization during the preceding year. The
39 financial statement shall be submitted on forms approved by the
40 ~~secretary of state~~ *attorney general*, signed and sworn by at least two
41 authorized officers of the organization, including the chief fiscal
42 officer. Such financial statement shall include a balance sheet and
43 statement of income and expense, clearly setting forth the following:

1 **Gross receipts and gross income from all sources, broken down into**
 2 **total receipts and income from each separate solicitation project or**
 3 **source; cost of administration; cost of solicitation; cost of programs**
 4 **designed to inform or educate the public; funds or properties**
 5 **transferred out of this state, with explanation as to recipient and**
 6 **purpose; and total net amount disbursed or dedicated for each major**
 7 **purpose, charitable or otherwise.**

8 **(c) A charitable organization that received contributions in excess**
 9 **of \$500,000 during the organization's most recently completed fiscal**
 10 **year shall file, in addition to the federal income tax returns or the**
 11 **statement required by subsection (b), an audited financial statement**
 12 **for the charitable organization's most recently completed fiscal year,**
 13 **prepared in accordance with generally accepted accounting principles,**
 14 **and the opinion of an independent certified public accountant on the**
 15 **financial statement.**

16 **(d) Upon receipt of any such a proper registration and payment of**
 17 **applicable fees, the secretary of state attorney general shall issue a**
 18 **charitable solicitation license and identification number. All**
 19 **certificates of registration and identification numbers issued to**
 20 **charitable organizations shall expire on the last day of the sixth month**
 21 **following the month in which the fiscal year of the charitable**
 22 **organization ends.**

23 **(e) Every charitable organization required to register with the**
 24 **secretary of state attorney general shall pay a fee of \$20 \$25 with each**
 25 **registration.**

26 **(f) (1) The secretary of state attorney general may adopt rules and**
 27 **regulations necessary for the administration of this the charitable**
 28 **organizations and solicitations act.**

29 **(2) All rules and regulations, orders, directives and standards of the**
 30 **secretary of state relating to the charitable organizations and solicitations**
 31 **act that are in effect on June 30, 2021, shall be deemed to be the rules and**
 32 **regulations, orders, directives and standards of the attorney general and**
 33 **shall continue to be effective until amended, revoked or nullified pursuant**
 34 **to law.**

35 **Sec. 6. K.S.A. 17-1764 is hereby amended to read as follows: 17-**
 36 **1764. (a) No person shall act as a professional fund raiser for a**
 37 **charitable organization or for any religious organization as described**
 38 **in subsection (k) of K.S.A. 17-1762(k), and amendments thereto, before**
 39 **such person has registered with the secretary of state attorney general or**
 40 **after the expiration or cancellation of such registration or any renewal**
 41 **of such registration.**

42 **(b) Applications An application for registration and reregistration or**
 43 **renewal shall be in writing and under oath in the form prescribed by**

(g) A state agency or state official shall not impose any annual filing or reporting requirements on a private foundation, as defined in 26 U.S.C. § 509(a), as in effect on July 1, 2021, or a charitable trust, as defined in 26 U.S.C. § 4947(a)(1), as in effect on July 1, 2021, that are more stringent, restrictive or expansive than such requirements in the Kansas Statutes Annotated or federal law.