
SUBSTITUTE SENATE BILL 5662

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Weinstein, Honeyford, McCaslin, Delvin, Tom, Kline, Keiser, Shin and Rasmussen; by request of Secretary of State)

READ FIRST TIME 02/22/07.

1 AN ACT Relating to charitable organizations that solicit
2 contributions from the public; amending RCW 19.09.010, 19.09.020,
3 19.09.075, 19.09.076, 19.09.079, 19.09.085, 19.09.097, 19.09.100,
4 19.09.210, and 19.09.440; reenacting and amending RCW 43.79A.040;
5 adding new sections to chapter 19.09 RCW; prescribing penalties; and
6 repealing RCW 19.09.095.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 19.09.010 and 1986 c 230 s 1 are each amended to read
9 as follows:

10 The purpose of this chapter is to:

11 (1) Provide citizens of the state of Washington with information
12 relating to persons and organizations who solicit funds from the public
13 for public charitable purposes in order to prevent ~~((+1))~~ (a)
14 deceptive and dishonest practices in the conduct of soliciting funds
15 for or in the name of charity; and ~~((+2))~~ (b) improper use of
16 contributions intended for charitable purposes;

17 (2) Improve the transparency and accountability of organizations
18 that solicit funds from the public for charitable purposes; and

1 (3) Develop and operate educational programs or partnerships for
2 charitable organizations, board members, and the general public that
3 help build public confidence and trust in organizations that solicit
4 funds from the public for charitable purposes.

5 **Sec. 2.** RCW 19.09.020 and 2002 c 74 s 1 are each amended to read
6 as follows:

7 When used in this chapter, unless the context otherwise requires:

8 (1) A "bona fide officer or employee" of a charitable organization
9 is one (a) whose conduct is subject to direct control by such
10 organization; (b) who does not act in the manner of an independent
11 contractor in his or her relation with the organization; and (c) whose
12 compensation is not computed on funds raised or to be raised.

13 (2) "Charitable organization" means any entity that solicits or
14 collects contributions from the general public where the contribution
15 is or is purported to be used to support a charitable ((activity))
16 purpose, but does not include any commercial fund raiser ((~~or~~)),
17 commercial fund-raising entity, commercial coventurer, or any fund-
18 raising counsel, as defined in this section. ((~~"Charitable" (a) is not~~
19 ~~limited to its common law meaning unless the context clearly requires~~
20 ~~a narrower meaning; (b) does not include religious or political~~
21 ~~activities; and (c) includes, but is not limited to, educational,~~
22 ~~recreational, social, patriotic, legal defense, benevolent, and health~~
23 ~~causes.~~) Churches and their integrated auxiliaries are not charitable
24 organizations, but are subject to RCW 19.09.100 (12), (15), and (18).

25 (3) "Charitable purpose" means any religious, charitable,
26 scientific, testing for public safety, literary, or educational purpose
27 or any other purpose that is beneficial to the community, including
28 environmental, humanitarian, patriotic, or civic purposes, the support
29 of national or international amateur sports competition, the prevention
30 of cruelty to children or animals, the advancement of social welfare,
31 or the benefit of law enforcement personnel, firefighters, and other
32 persons who protect public safety. The term "charitable" is used in
33 its generally accepted legal sense and includes relief of the poor, the
34 distressed, or the underprivileged; advancement of religion;
35 advancement of education or science; erecting or maintaining public
36 buildings, monuments, or works; lessening the burdens of government;

1 lessening neighborhood tensions; eliminating prejudice and
2 discrimination; defending human and civil rights secured by law; and
3 combating community deterioration and juvenile delinquency.

4 (4) "Commercial coventurer" means any individual or corporation,
5 partnership, sole proprietorship, limited liability company, limited
6 partnership, limited liability partnership, or any other legal entity,
7 that:

8 (a) Is regularly and primarily engaged in making sales of goods or
9 services for profit directly to the general public;

10 (b) Is not otherwise regularly or primarily engaged in making
11 charitable solicitations in this state or otherwise raising funds in
12 this state for one or more charitable organizations;

13 (c) Represents to prospective purchasers that, if they purchase a
14 good or service from the commercial coventurer, a portion of the sales
15 price or a sum of money or some other specified thing of value will be
16 donated to a named charitable organization; and

17 (d) Does not ask purchasers to make checks or other instruments
18 payable to a named charitable organization or any entity other than the
19 commercial coventurer itself under its regular commercial name.

20 (5) "Commercial fund raiser" or "commercial fund-raising entity"
21 means any entity that for compensation or other consideration within
22 this state directly or indirectly solicits or receives contributions
23 for or on behalf of any charitable organization or charitable purpose,
24 or that is engaged in the business of or is held out to persons in this
25 state as independently engaged in the business of soliciting or
26 receiving contributions for such purposes. However, a commercial
27 coventurer, fund-raising counsel, or consultant is not a commercial
28 fund raiser or commercial fund-raising entity.

29 (6) "Compensation" means salaries, wages, fees, commissions, or any
30 other remuneration or valuable consideration.

31 ~~((4))~~ (7) "Contribution" means the payment, donation, promise, or
32 grant, for consideration or otherwise, of any money or property of any
33 kind or value which contribution is wholly or partly induced by a
34 solicitation. Reference to dollar amounts of "contributions" or
35 "solicitations" in this chapter means in the case of payments or
36 promises to pay for merchandise or rights of any description, the value
37 of the total amount paid or promised to be paid for such merchandise or
38 rights ~~((less the reasonable purchase price to the charitable~~

1 ~~organization of any such tangible merchandise, rights, or services~~
2 ~~resold by the organization, and not merely that portion of the purchase~~
3 ~~price to be applied to a charitable purpose)).~~

4 ~~((+5))~~ (8) "Cost of solicitation" means and includes all direct
5 and indirect costs, expenditures, debts, obligations, salaries, wages,
6 commissions, fees, or other money or thing of value paid or incurred in
7 making a solicitation. ~~((Cost of solicitation does not include the~~
8 ~~reasonable purchase price to the charitable organization of any~~
9 ~~tangible goods or services resold by the organization as a part of its~~
10 ~~fund raising activities.~~

11 ~~(+6))~~ (9) "Entity" means an individual, organization, group,
12 association, partnership, corporation, agency or unit of state
13 government, or any combination thereof.

14 ~~((+7) "General public" or "public" means any individual located in~~
15 ~~Washington state without a membership or other official relationship~~
16 ~~with a charitable organization before a solicitation by the charitable~~
17 ~~organization.~~

18 ~~(8) "Commercial fund raiser" or "commercial fund raising entity"~~
19 ~~means any entity that for compensation or other consideration within~~
20 ~~this state directly or indirectly solicits or receives contributions~~
21 ~~for or on behalf of any charitable organization or charitable purpose,~~
22 ~~or that is engaged in the business of or is held out to persons in this~~
23 ~~state as independently engaged in the business of soliciting or~~
24 ~~receiving contributions for such purposes. However, the following~~
25 ~~shall not be deemed a commercial fund raiser or "commercial fund-~~
26 ~~raising entity": (a) Any entity that provides fund raising advice or~~
27 ~~consultation to a charitable organization within this state but neither~~
28 ~~directly nor indirectly solicits or receives any contribution for or on~~
29 ~~behalf of any such charitable organization; and (b) a bona fide officer~~
30 ~~or other employee of a charitable organization.~~

31 ~~(+9))~~ (10) "Fund-raising counsel" or "consultant" means any entity
32 or individual who is retained by a charitable organization, for a fixed
33 fee or rate, that is not computed on a percentage of funds raised, or
34 to be raised, under a written agreement only to plan, advise, consult,
35 or prepare materials for a solicitation of contributions in this state,
36 but who does not manage, conduct, or carry on a fund-raising campaign
37 and who does not solicit contributions or employ, procure, or engage
38 any compensated person to solicit contributions, and who does not at

1 any time have custody or control of contributions. A volunteer,
2 employee, or salaried officer of a charitable organization maintaining
3 a permanent establishment or office in this state is not a fund-raising
4 counsel. An attorney, investment counselor, or banker who advises an
5 individual, corporation, or association to make a charitable
6 contribution is not a fund-raising counsel as a result of the advice.

7 (11) "General public" or "public" means any individual located in
8 Washington state without a membership or other official relationship
9 with a charitable organization before a solicitation by the charitable
10 organization.

11 (12) "Membership" means that for the payment of fees, dues,
12 assessments, etc., an organization provides services and confers a bona
13 fide right, privilege, professional standing, honor, or other direct
14 benefit, in addition to the right to vote, elect officers, or hold
15 office. The term "membership" does not include those persons who are
16 granted a membership upon making a contribution as the result of
17 solicitation.

18 ~~((10))~~ (13) "Other employee" of a charitable organization means
19 any person (a) whose conduct is subject to direct control by such
20 organization; (b) who does not act in the manner of any independent
21 contractor in his or her relation with the organization; and (c) who is
22 not engaged in the business of or held out to persons in this state as
23 independently engaged in the business of soliciting contributions for
24 charitable purposes or religious ~~((purposes))~~ activities.

25 ~~((11) "Parent organization" means that part of a charitable~~
26 ~~organization that coordinates, supervises, or exercises control over~~
27 ~~policy, fund raising, or expenditures, or assists or advises one or~~
28 ~~more related foundations, supporting organizations, chapters, branches,~~
29 ~~or affiliates of such organization in the state of Washington.~~

30 ~~(12))~~ (14) "Political ~~((activities))~~ organization" means those
31 organizations whose activities are subject to chapter 42.17 RCW or the
32 Federal Elections Campaign Act of 1971, as amended.

33 ~~((13) "Religious activities" means those religious, evangelical,~~
34 ~~or missionary activities under the direction of a religious~~
35 ~~organization duly organized and operating in good faith that are~~
36 ~~entitled to receive a declaration of current tax exempt status for~~
37 ~~religious purposes from the United States government and the duly~~
38 ~~organized branches or chapters of those organizations.~~

1 ~~(14))~~ (15) "Religious organization" means those entities that are
2 not churches or integrated auxiliaries and includes nondenominational
3 ministries, interdenominational and ecumenical organizations, mission
4 organizations, speakers' organizations, faith-based social agencies,
5 and other entities whose principal purpose is the study, practice, or
6 advancement of religion.

7 (16) "Secretary" means the secretary of state.

8 ~~((15))~~ (17) "Signed" means hand-written, or, if the secretary
9 adopts rules facilitating electronic filing that pertain to this
10 chapter, in the manner prescribed by those rules.

11 ~~((16))~~ (18)(a) "Solicitation" means any oral or written request
12 for a contribution, including the solicitor's offer or attempt to sell
13 any property, rights, services, or other thing in connection with
14 which:

15 ~~((a))~~ (i) Any appeal is made for any charitable purpose; ~~((or~~
16 ~~(b))~~ (ii) The name of any charitable organization is used as an
17 inducement for consummating the sale; or

18 ~~((c))~~ (iii) Any statement is made that implies that the whole or
19 any part of the proceeds from the sale will be applied toward any
20 charitable purpose or donated to any charitable organization.

21 (b) The solicitation shall be deemed completed when made, whether
22 or not the person making it receives any contribution or makes any
23 sale.

24 (c) "Solicitation" does not include bingo activities, raffles, and
25 amusement games conducted under chapter 9.46 RCW and applicable rules
26 of the Washington state gambling commission (~~are specifically excluded~~
27 ~~and shall not be deemed a solicitation under this chapter~~)).

28 **Sec. 3.** RCW 19.09.075 and 2002 c 74 s 2 are each amended to read
29 as follows:

30 An application for registration as a charitable organization shall
31 be submitted in the form prescribed by rule by the secretary,
32 containing, but not limited to, the following:

33 (1) The name, address, and telephone number of the charitable
34 organization;

35 (2) The name(s) under which the organization will solicit
36 contributions;

1 (3) The name, address, and telephone number of the officers of or
2 persons accepting responsibility for the organization;

3 (4) The names of the three officers or employees receiving the
4 greatest amount of compensation from the organization;

5 (5) The purpose of the organization;

6 (6)(a) Whether the organization is exempt from federal income tax;
7 and if so the organization shall attach to its application a copy of
8 the letter by which the internal revenue service granted such status;
9 and

10 (b) The name and address of the entity that prepares, reviews, or
11 audits the financial statement of the organization;

12 (7) A solicitation report of the organization for the preceding
13 accounting year including:

14 (a) The ~~((number and))~~ types of solicitations conducted;

15 (b) The total dollar value of ~~((support))~~ contributions received
16 from solicitations and from all other sources received on behalf of the
17 charitable purpose of the charitable organization;

18 (c) The total amount of money applied to charitable purposes, fund
19 raising costs, and other expenses; and

20 (d) The name, address, and telephone number of any commercial fund
21 raiser used by the organization;

22 (8) An irrevocable appointment of the secretary to receive service
23 of process in noncriminal proceedings as provided in RCW 19.09.305; and

24 (9) The total revenue of the preceding fiscal year.

25 The solicitation report required to be submitted under subsection
26 (7) of this section shall be in the form prescribed by rule by the
27 secretary, or as agreed to by the secretary and a charitable
28 organization ~~((or a group of charitable organizations. A consolidated
29 application for registration may, at the option of the charitable
30 organization, be submitted by a parent organization for itself and any
31 or all of its related foundations, supporting organizations, chapters,
32 branches, or affiliates in the state of Washington.~~

33 ~~The application shall be signed by)).~~ The president, treasurer, or
34 comparable officer of the organization must sign and date the
35 application. The application shall be submitted with a nonrefundable
36 filing fee which shall be in an amount to be established by the
37 secretary by rule. In determining the amount of this application fee,
38 the secretary may consider factors such as the entity's annual budget

1 and its federal income tax status. If the secretary determines that
2 the application is complete, the application shall be filed and the
3 applicant deemed registered.

4 ~~((The secretary shall notify the director of veterans' affairs upon
5 receipt of an application for registration as a charitable organization
6 from an entity that purports to raise funds to benefit veterans of the
7 United States military services. The director of veterans' affairs may
8 advise the secretary and the attorney general of any information,
9 reports, or complaints regarding such an organization.))~~

10 **Sec. 4.** RCW 19.09.076 and 1994 c 287 s 1 are each amended to read
11 as follows:

12 (1) The application requirements of RCW 19.09.075 do not apply to
13 ~~((the following)):~~

14 ~~((1))~~ (a) Any charitable organization raising less than an amount
15 as set by rule adopted by the secretary in any accounting year when all
16 the activities of the organization, including all fund raising
17 activities, are carried on by persons who are unpaid for their services
18 and no part of the charitable organization's assets or income inures to
19 the benefit of or is paid to any officer or member of the organization;

20 ~~((2) Any charitable organization located outside of the state of
21 Washington if the organization files the following with the secretary:~~

22 ~~(a) The registration documents required under the charitable
23 solicitation laws of the state in which the charitable organization is
24 located;~~

25 ~~(b) The registration required under the charitable solicitation
26 laws of the state of California and the state of New York; and~~

27 ~~(c) Such federal income tax forms as may be required by rule of the
28 secretary.))~~

29 (b) Political organizations; or

30 (c) Appeals for funds on behalf of a specific individual named in
31 the solicitation, but only if all of the proceeds of the solicitation
32 are given to or expended for the direct benefit of that individual.

33 (2) All entities soliciting ~~((charitable donations))~~ contributions
34 for charitable purposes shall comply with the requirements of RCW
35 19.09.100.

1 **Sec. 5.** RCW 19.09.079 and 1993 c 471 s 5 are each amended to read
2 as follows:

3 An application for registration as a commercial fund raiser shall
4 be submitted in the form prescribed by the secretary, containing, but
5 not limited to, the following:

6 (1) The name, address, and telephone number of the commercial fund-
7 raising entity;

8 (2) The name(s), address(es), and telephone number(s) of the
9 owner(s) and principal officer(s) of the commercial fund-raising
10 entity;

11 (3) The name, address, and telephone number of the individual
12 responsible for the activities of the commercial fund-raising entity in
13 Washington;

14 (4) ~~((A list of states and Canadian provinces in which fund raising
15 has been performed;~~

16 ~~(5))~~ The names of the three officers or employees receiving the
17 greatest amount of compensation from the commercial fund-raising
18 entity;

19 ~~((6))~~ (5) The name and address of the entity that prepares,
20 reviews, or audits the financial statement of the organization;

21 ~~((7))~~ (6) A solicitation report of the commercial fund-raising
22 entity for the preceding accounting year, including:

23 (a) ~~The ((number and))~~ types of fund raising services conducted;

24 (b) The names of charitable organizations required to register
25 under RCW 19.09.065 for whom fund raising services have been performed;

26 (c) The total value of contributions received on behalf of
27 charitable organizations required to register under RCW 19.09.065 by
28 the commercial fund raiser, affiliate of the commercial fund raiser, or
29 any entity retained by the commercial fund raiser; and

30 (d) The amount of money disbursed to charitable organizations for
31 charitable purposes, net of fund raising costs paid by the charitable
32 organization as stipulated in any agreement between charitable
33 organizations and the commercial fund raiser;

34 ~~((8))~~ (7) The name, address, and telephone number of any
35 commercial fund raiser that was retained in the conduct of providing
36 fund raising services; and

37 ~~((9))~~ (8) An irrevocable appointment of the secretary to receive

1 service of process in noncriminal proceedings as provided in RCW
2 19.09.305.

3 The application shall be signed by an officer or owner of the
4 commercial fund raiser and shall be submitted with a nonrefundable fee
5 in an amount to be established by rule of the secretary. If the
6 secretary determines that the application is complete, the application
7 shall be filed and the applicant deemed registered.

8 **Sec. 6.** RCW 19.09.085 and 1993 c 471 s 6 are each amended to read
9 as follows:

10 (1) Registration under this chapter shall be effective for one year
11 or longer, as established by the secretary.

12 (2) Reregistration required under RCW 19.09.075 or 19.09.079 shall
13 be submitted to the secretary no later than the date established by the
14 secretary by rule.

15 (3) Entities required to register under this chapter shall file a
16 notice of change of information within thirty days of any change in the
17 information contained in RCW 19.09.075 (1) through ~~((+6+))~~ (9) or
18 19.09.079 (1) through ~~((+6+))~~ (7).

19 (4) The secretary shall notify entities registered under this
20 chapter of the need to reregister upon the expiration of their current
21 registration. The notification shall be by mail, sent at least sixty
22 days prior to the expiration of their current registration. Failure to
23 register shall not be excused by a failure of the secretary to mail the
24 notice or by an entity's failure to receive the notice.

25 **Sec. 7.** RCW 19.09.097 and 1993 c 471 s 7 are each amended to read
26 as follows:

27 (1) No charitable organization may contract with a commercial fund
28 raiser for any fund raising service or activity unless its contract
29 requires that both parties comply with the law and permits officers of
30 the charity reasonable access to: (a) The fund raisers' financial
31 records relating to that charitable organization; ~~((and))~~ (b) the fund
32 raisers' operations including without limitation the right to be
33 present during any telephone solicitation; and (c) the names of all of
34 the fund raisers' employees or staff who are conducting fund raising or
35 charitable solicitations on behalf of the charitable organization. In
36 addition, the contract shall specify the amount of raised funds that

1 the charitable organization will receive or the method of computing
2 that amount, the amount of compensation of the commercial fund raiser
3 or the method of computing that amount, and whether the compensation is
4 fixed or contingent.

5 (2) Before a charitable organization may contract with a commercial
6 fund raiser for any fund raising service or activity, the charitable
7 organization and commercial fund raiser shall complete and file a
8 registration form with the secretary. The registration shall be filed
9 by the charitable organization (~~((with the secretary,))~~) in the form
10 prescribed by the secretary(~~(, within five working days of the~~
11 ~~execution of the contract containing,))~~). The registration shall
12 contain, but not be limited to, the following information:

13 (a) The name and registration number of the commercial fund raiser;

14 (b) The name of the surety or sureties issuing the bond required by
15 RCW 19.09.190, the aggregate amount of such bond or bonds, the bond
16 number(s), original effective date(s), and termination date(s);

17 (c) The name and registration number of the charitable
18 organization;

19 (d) The name of the representative of the commercial fund raiser
20 who will be responsible for the conduct of the fund raising;

21 (e) The type(s) of service(s) to be provided by the commercial fund
22 raiser;

23 (f) The dates such service(s) will begin and end;

24 (g) The terms of the agreement between the charitable organization
25 and commercial fund raiser relating to:

26 (i) Amount or percentages of amounts to inure to the charitable
27 organization;

28 (ii) Limitations placed on the maximum amount to be raised by the
29 fund raiser, if the amount to inure to the charitable organization is
30 not stated as a percentage of the amount raised;

31 (iii) Costs of fund raising that will be the responsibility of the
32 charitable organization, regardless of whether paid as a direct
33 expense, deducted from the amounts disbursed, or otherwise; and

34 (iv) The manner in which contributions received directly by the
35 charitable organization, not the result of services provided by the
36 commercial fund raiser, will be identified and used in computing the
37 fee owed to the commercial fund raiser; and

1 (h) The names of any entity to which more than ten percent of the
2 total anticipated fund raising cost is to be paid, and whether any
3 principal officer or owner of the commercial fund raiser or relative by
4 blood or marriage thereof is an owner or officer of any such entity.

5 (3) A correct copy of the contract shall be filed with the
6 secretary before the commencement of any campaign.

7 (4) The registration form shall be submitted with a nonrefundable
8 filing fee in an amount to be established by rule of the secretary and
9 shall be signed by an owner or principal officer of the commercial fund
10 raiser and the president, treasurer, or comparable officer of the
11 charitable organization.

12 **Sec. 8.** RCW 19.09.100 and 1994 c 287 s 2 are each amended to read
13 as follows:

14 The following conditions apply to solicitations as defined by RCW
15 19.09.020:

16 (1) A charitable organization, whether or not required to register
17 pursuant to this chapter, that directly solicits contributions from the
18 public in this state shall make the following clear and conspicuous
19 disclosures at the point of solicitation:

20 (a) The name of the individual making the solicitation;

21 (b) The identity of the charitable organization and the city of the
22 principal place of business of the charitable organization;

23 (c) If requested by the solicitee, the published number in the
24 office of the secretary for the donor to obtain additional financial
25 disclosure information on file with the secretary.

26 (2) A commercial fund raiser shall clearly and conspicuously
27 disclose at the point of solicitation:

28 (a) The name of the individual making the solicitation;

29 (b) The name of the entity for which the fund raiser is an agent or
30 employee and the name and city of the charitable organization for which
31 the solicitation is being conducted; and

32 (c) If requested by the solicitee, the published number in the
33 office of the secretary for the donor to obtain additional financial
34 disclosure information on file with the secretary. The disclosure must
35 be made during an oral solicitation of a contribution, and at the same
36 time at which a written request for a contribution is made.

1 (3) A person or organization soliciting charitable contributions by
2 telephone shall make the disclosures required under subsection (1) or
3 (2) of this section in the course of the solicitation but prior to
4 asking for a commitment for a contribution from the solicitee, and in
5 writing to any solicitee that makes a pledge within five working days
6 of making the pledge. If the person or organization sends any
7 materials to the person or organization solicited before the receipt of
8 any contribution, those materials shall include the disclosures
9 required in subsection (1) or (2) of this section, whichever is
10 applicable.

11 (4) In the case of a solicitation by advertisement or mass
12 distribution, including posters, leaflets, automatic dialing machines,
13 publication, and audio or video broadcasts, it shall be clearly and
14 conspicuously disclosed in the body of the solicitation material that:

15 (a) The solicitation is conducted by a named commercial fund
16 raiser, if it is;

17 (b) The notice of solicitation required by the charitable
18 solicitation act is on file with the secretary's office; and

19 (c) The potential donor can obtain additional financial disclosure
20 information at a published number in the office of the secretary.

21 (5) A container or vending machine displaying a solicitation must
22 also display in a clear and conspicuous manner the name of the
23 charitable organization for which funds are solicited, the name,
24 business address, and telephone number of the individual and any
25 commercial fund raiser responsible for collecting funds placed in the
26 containers or vending machines, and the following statement: "This
27 charity is currently registered with the secretary's office under the
28 charitable solicitation act, registration number"

29 (6) A commercial fund raiser shall not represent that tickets to
30 any fund raising event will be donated for use by another person unless
31 all the following requirements are met:

32 (a) The commercial fund raiser prior to conducting a solicitation
33 has written commitments from persons stating that they will accept
34 donated tickets and specifying the number of tickets they will accept;

35 (b) The written commitments are kept on file by the commercial fund
36 raiser for three years and are made available to the secretary,
37 attorney general, or county prosecutor on demand;

1 (c) The contributions solicited for donated tickets may not be more
2 than the amount representing the number of ticket commitments received
3 from persons and kept on file under (a) of this subsection; and

4 (d) Not later than seven calendar days prior to the date of the
5 event for which ticket donations are solicited, the commercial fund
6 raiser shall give all donated tickets to the persons who made the
7 written commitments to accept them.

8 (7) Each person or organization soliciting charitable contributions
9 shall not represent orally or in writing that:

10 (a) The charitable contribution is tax deductible unless the
11 charitable organization for which charitable contributions are being
12 solicited or to which tickets for fund raising events or other services
13 or goods will be donated, has applied for and received from the
14 internal revenue service a letter of determination granting tax
15 deductible status to the charitable organization;

16 (b) The person soliciting the charitable contribution is a
17 volunteer or words of similar meaning or effect that create the
18 impression that the person soliciting is not a paid solicitor unless
19 such person is unpaid for his or her services;

20 (c) The person soliciting the charitable contribution is a member,
21 staffer, helper, or employee of the charitable organization or words of
22 similar meaning or effect that create the impression that the person
23 soliciting is not a paid solicitor if the person soliciting is
24 employed, contracted, or paid by a commercial fund raiser.

25 (8) If the charitable organization is associated with, or has a
26 name that is similar to, any unit of government each person or
27 organization soliciting contributions shall disclose to each person
28 solicited whether the charitable organization is or is not part of any
29 unit of government and the true nature of its relationship to the unit
30 of government. This subsection does not apply to a foundation or other
31 charitable organization that is organized, operated, or controlled by
32 or in connection with a registered public charity, including any
33 governmental agency or unit, from which it derives its name.

34 (9) No person may, in conducting any solicitation, use the name
35 "police," "sheriff," "firefighter," "firemen," or a similar name unless
36 properly authorized by a bona fide police, sheriff, or firefighter
37 organization or police, sheriff, or fire department. A proper

1 authorization shall be in writing and signed by two authorized
2 officials of the organization or department and shall be filed with the
3 secretary.

4 (10) A person may not, in conducting any solicitation, use the name
5 of a federally chartered or nationally recognized military veterans'
6 service organization as determined by the United States veterans'
7 administration unless authorized in writing by the highest ranking
8 official of that organization in this state.

9 (11) A charitable organization shall comply with all local
10 governmental regulations that apply to soliciting for or on behalf of
11 charitable organizations.

12 (~~The advertising material and the general promotional plan~~
13 ~~for a solicitation shall not be false, misleading, or deceptive, and~~
14 ~~shall afford full and fair disclosure~~) An entity soliciting
15 contributions for a charitable purpose shall not include in any
16 solicitation, or in any advertising material for a solicitation, or in
17 any promotional plan for a solicitation, any statement that is false,
18 misleading, or deceptive. All solicitations, advertising material, and
19 promotional plans must fully and fairly disclose the identity of the
20 entity on whose behalf the solicitation is made.

21 (13) Solicitations shall not be conducted by a charitable
22 organization or commercial fund raiser that has, or if a corporation,
23 its officers, directors, or principals have, been convicted of a crime
24 involving solicitations for or on behalf of a charitable organization
25 in this state, the United States, or any other state or foreign country
26 within the past ten years or has been subject to any permanent
27 injunction or administrative order or judgment under RCW 19.86.080 or
28 19.86.090, involving a violation or violations of RCW 19.86.020, within
29 the past ten years, or of restraining a false or misleading promotional
30 plan involving solicitations for charitable organizations.

31 (14) No charitable organization or commercial fund raiser subject
32 to this chapter may use or exploit the fact of registration under this
33 chapter so as to lead the public to believe that registration
34 constitutes an endorsement or approval by the state, but the use of the
35 following is not deemed prohibited: "Currently registered with the
36 Washington state secretary of state as required by law. Registration
37 number"

1 (15) No entity may engage in any solicitation for contributions for
2 or on behalf of any charitable organization or commercial fund raiser
3 unless the charitable organization or commercial fund raiser is
4 currently registered with the secretary.

5 (16) No ~~((entity))~~ charitable organization or commercial fundraiser
6 may engage in any solicitation for contributions unless it complies
7 with all provisions of this chapter.

8 (17)~~((a))~~ No entity may place a telephone call to a donor or
9 potential donor for the purpose of charitable solicitation ~~((that will~~
10 ~~be received by the solicitee))~~ before eight o'clock a.m. or after nine
11 o'clock p.m. pacific time.

12 ~~((b))~~ (18) No entity may, ~~((while placing a telephone call))~~ when
13 contacting a donor or potential donor for the purpose of charitable
14 solicitation, engage in any conduct the natural consequence of which is
15 to harass, intimidate, or torment any person in connection with the
16 ~~((telephone call))~~ contact.

17 ~~((18))~~ (19) Failure to comply with subsections (1) through
18 ~~((17))~~ (18) of this section is a violation of this chapter.

19 **Sec. 9.** RCW 19.09.210 and 1993 c 471 s 12 are each amended to read
20 as follows:

21 Upon the request of the attorney general or the county prosecutor,
22 a charitable organization or commercial fund raiser shall submit a
23 financial statement containing, but not limited to, the following
24 information:

25 (1) The gross amount of the contributions pledged and the gross
26 amount collected.

27 (2) The amount thereof, given or to be given to charitable purposes
28 represented together with details as to the manner of distribution as
29 may be required.

30 (3) The aggregate amount paid and to be paid for the expenses of
31 such solicitation.

32 (4) The amounts paid to and to be paid to commercial fund raisers
33 or charitable organizations.

34 (5) Copies of any annual or periodic reports furnished by the
35 charitable organization~~((7))~~ of its activities during or for the same
36 fiscal period~~((, to its parent organization, subsidiaries, or~~
37 ~~affiliates, if any))~~.

1 **Sec. 10.** RCW 19.09.440 and 1993 c 471 s 42 are each amended to
2 read as follows:

3 (1) Annually, the secretary of state shall publish a report
4 indicating:

5 (a) For each charitable organization registered under RCW
6 (~~19.09.065~~) 19.09.075 the percentage relationship between (i) the
7 total amount of money applied to charitable purposes; and (ii) the
8 dollar value of (~~support received from solicitations and received from~~
9 ~~all other sources on behalf of the charitable purpose of the~~
10 ~~organization~~) total expenditures, including the total amount of money
11 applied to charitable purposes, fund raising costs, and administrative
12 expenses;

13 (b) For each commercial fund raiser registered under RCW
14 (~~19.09.065~~) 19.09.079 the percentage relationship between (i) the
15 amount of money disbursed to charitable organizations for charitable
16 purposes; and (ii) the total value of contributions received on behalf
17 of charitable organizations by the commercial fund raiser; and

18 (c) Such other information as the secretary of state deems
19 appropriate.

20 (2) The secretary of state may use the latest information obtained
21 pursuant to RCW 19.09.075, 19.09.079, or otherwise under chapter 19.09
22 RCW to prepare the report.

23 NEW SECTION. **Sec. 11.** A new section is added to chapter 19.09 RCW
24 to read as follows:

25 Charitable organizations must ensure that their boards, or a
26 committee thereof, have reviewed and accepted any financial report that
27 the organization may be required to file with the office of the
28 secretary. Charitable organizations must also ensure that the
29 financial information included in the filing fairly represents, in all
30 material respects, the financial condition and results of operations of
31 the organization as of, and for, the periods presented to the secretary
32 for filing. If the financial information submitted to the secretary is
33 incorrect in any material way, the charitable organization may be
34 subject to penalties as provided under RCW 19.09.279.

35 NEW SECTION. **Sec. 12.** A new section is added to chapter 19.09 RCW
36 to read as follows:

1 The secretary may, in conjunction with the attorney general,
2 develop and operate an education program for charitable organizations,
3 their board members, and the general public. To the extent
4 practicable, the secretary shall consult with the nonprofit and
5 charitable sector and the charitable advisory council created in
6 section 16 of this act to develop curriculum and other materials
7 intended to educate charitable organizations, their board members, and
8 the general public.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 19.09 RCW
10 to read as follows:

11 (1) To provide for a charitable organization education program as
12 authorized in section 12 of this act, the secretary may establish fees
13 on registrations for entities filing with the secretary as
14 organizations pursuant to this chapter.

15 (2) The fees authorized in this section are in addition to the
16 existing fees established by the secretary in rule for organizations
17 required to register under this chapter.

18 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.09 RCW
19 to read as follows:

20 The charitable organization education account is created in the
21 custody of the state treasurer. All receipts from the fees authorized
22 in section 13(1) of this act must be deposited into the account.
23 Expenditures from the account may be used only for the charitable
24 organization education program authorized in section 12 of this act.
25 Only the secretary of state or the secretary's designee may authorize
26 expenditures from the account. The account is subject to allotment
27 procedures under chapter 43.88 RCW, but an appropriation is not
28 required for expenditures.

29 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.09 RCW
30 to read as follows:

31 The secretary is authorized to adopt rules, in accordance with
32 chapter 34.05 RCW, that establish a set of tiered independent financial
33 reporting requirements for charitable organizations required to
34 register with the secretary pursuant to this chapter. Rules adopted

1 under this section shall include, but not be limited to, substantially
2 the following:

3 (1) An initial filing requirement for all charitable organizations
4 as currently required in this chapter;

5 (2) A financial reporting requirement for charitable organizations
6 that have more than one million dollars in annual gross revenue
7 averaged over the last three fiscal years. The secretary may require
8 charitable organizations that meet this threshold to have the federal
9 financial reporting forms the organization normally files to be
10 completed or reviewed by a third party who normally prepares or reviews
11 the forms in the ordinary course of their business. These forms must
12 be submitted to the secretary; and

13 (3) A financial reporting requirement for charitable organizations
14 with more than three million dollars in annual gross revenue averaged
15 over the last three fiscal years. The secretary may require charitable
16 organizations that meet this threshold to submit to the secretary
17 audited financial statements prepared by an independent certified
18 public accountant.

19 NEW SECTION. **Sec. 16.** A new section is added to chapter 19.09 RCW
20 to read as follows:

21 (1) The secretary is authorized to create a charitable advisory
22 council to consist of at least eleven, but not more than twenty-one,
23 members. Members of a charitable advisory council shall:

24 (a) Be appointed by the secretary, with all members serving at the
25 pleasure of the secretary and all terms expiring no later than the term
26 of the appointing secretary;

27 (b) Represent a broad range of charities by size, purpose,
28 geographic region of the state, and general expertise in the management
29 and leadership of charitable organizations; and

30 (c) Annually vote to elect one of its members to serve as
31 chairperson.

32 (2) The secretary shall not compensate members of the charitable
33 advisory council but may provide reimbursement to members for expenses
34 that are incurred in the conduct of their official duties.

35 (3) The charitable advisory council shall advise the secretary in
36 determining training and educational needs of charitable organizations
37 and model policies related to governance and administration of

1 charitable organizations in accordance with fiduciary principles,
2 assist the secretary in identifying emerging issues and trends
3 affecting charitable organizations, and advise the secretary on other
4 related issues at the request of the secretary.

5 NEW SECTION. **Sec. 17.** A new section is added to chapter 19.09 RCW
6 to read as follows:

7 (1) The secretary may enter into reciprocal agreements with the
8 appropriate authority of any other state for the purpose of exchanging
9 information with respect to charitable organizations and commercial
10 fund raisers.

11 (2) Pursuant to such agreements the secretary may:

12 (a) Accept information filed by a charitable organization or
13 commercial fund raisers with the appropriate authority of another state
14 in lieu of the information required to be filed in accordance with this
15 chapter, if the information is substantially similar to the information
16 required under this chapter; and

17 (b) Grant exemptions from the requirements for the filing of annual
18 registration statements with the office to charitable organizations
19 organized under the laws of another state having their principal place
20 of business outside this state whose funds are derived principally from
21 sources outside this state and that have been exempted from the filing
22 of registration statements by the statute under whose laws they are
23 organized if such a state has a statute similar in substance to this
24 chapter.

25 (3) The secretary may adopt rules relating to reciprocal agreements
26 consistent with this section.

27 **Sec. 18.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are
28 each reenacted and amended to read as follows:

29 (1) Money in the treasurer's trust fund may be deposited, invested,
30 and reinvested by the state treasurer in accordance with RCW 43.84.080
31 in the same manner and to the same extent as if the money were in the
32 state treasury.

33 (2) All income received from investment of the treasurer's trust
34 fund shall be set aside in an account in the treasury trust fund to be
35 known as the investment income account.

1 (3) The investment income account may be utilized for the payment
2 of purchased banking services on behalf of treasurer's trust funds
3 including, but not limited to, depository, safekeeping, and
4 disbursement functions for the state treasurer or affected state
5 agencies. The investment income account is subject in all respects to
6 chapter 43.88 RCW, but no appropriation is required for payments to
7 financial institutions. Payments shall occur prior to distribution of
8 earnings set forth in subsection (4) of this section.

9 (4)(a) Monthly, the state treasurer shall distribute the earnings
10 credited to the investment income account to the state general fund
11 except under (b) and (c) of this subsection.

12 (b) The following accounts and funds shall receive their
13 proportionate share of earnings based upon each account's or fund's
14 average daily balance for the period: The Washington promise
15 scholarship account, the college savings program account, the
16 Washington advanced college tuition payment program account, the
17 agricultural local fund, the American Indian scholarship endowment
18 fund, the foster care scholarship endowment fund, the foster care
19 endowed scholarship trust fund, the students with dependents grant
20 account, the basic health plan self-insurance reserve account, the
21 contract harvesting revolving account, the Washington state combined
22 fund drive account, the commemorative works account, the Washington
23 international exchange scholarship endowment fund, the developmental
24 disabilities endowment trust fund, the energy account, the fair fund,
25 the fruit and vegetable inspection account, the future teachers
26 conditional scholarship account, the game farm alternative account, the
27 grain inspection revolving fund, the juvenile accountability incentive
28 account, the law enforcement officers' and firefighters' plan 2 expense
29 fund, the local tourism promotion account, the produce railcar pool
30 account, the regional transportation investment district account, the
31 rural rehabilitation account, the stadium and exhibition center
32 account, the youth athletic facility account, the self-insurance
33 revolving fund, the sulfur dioxide abatement account, the children's
34 trust fund, the Washington horse racing commission Washington bred
35 owners' bonus fund account, the Washington horse racing commission
36 class C purse fund account, the individual development account program
37 account, the Washington horse racing commission operating account
38 (earnings from the Washington horse racing commission operating account

1 must be credited to the Washington horse racing commission class C
2 purse fund account), the life sciences discovery fund, the charitable
3 organization education account, and the reading achievement account.
4 However, the earnings to be distributed shall first be reduced by the
5 allocation to the state treasurer's service fund pursuant to RCW
6 43.08.190.

7 (c) The following accounts and funds shall receive eighty percent
8 of their proportionate share of earnings based upon each account's or
9 fund's average daily balance for the period: The advanced right of way
10 revolving fund, the advanced environmental mitigation revolving
11 account, the city and county advance right-of-way revolving fund, the
12 federal narcotics asset forfeitures account, the high occupancy vehicle
13 account, the local rail service assistance account, and the
14 miscellaneous transportation programs account.

15 (5) In conformance with Article II, section 37 of the state
16 Constitution, no trust accounts or funds shall be allocated earnings
17 without the specific affirmative directive of this section.

18 NEW SECTION. **Sec. 19.** RCW 19.09.095 (Subsidiary organizations--
19 Requirement to register--Exemptions) and 1986 c 230 s 9 & 1983 c 265 s
20 6 are each repealed.

--- END ---