

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1003

Solicitation of Funds

SPONSOR(S): Drake

TIED BILLS:

IDEN./SIM. BILLS: SB 348

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee		Thompson	Reese
2)	Policy Council			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Charitable organizations and sponsors that engage in solicitation activities in Florida must register with the Department of Agriculture and Consumer Services (DACs) and provide certain financial and background information, as required by chapter 496, F.S. Under specified circumstances, a person who is soliciting for a named individual and a charitable organization or sponsor that limits solicitation of contributions to the membership<sup>1</sup> of the charitable organization or sponsor, is exempt from said registration requirements.

The bill adds reputable military veteran’s associations or organizations that are registered with the Department of Veterans’ Affairs (DVA) to the list of exemptions from the registration requirements for charitable organizations and sponsors.

As discussed in the “Comments” section of the analysis, military veterans’ associations and organizations do not register with the DVA. Consequently, the bill would not affect military veterans’ organizations that are currently registered with the DACs.

If the bill were to be revised to exempt the types of military organizations that are registered with the DACs, there may be an insignificant loss of revenue to the state.

The bill’s effective date is July 1, 2010.

<sup>1</sup> For purposes of this part, the term “membership” does not include those persons who are granted a membership upon making a contribution as a result of a solicitation.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1003.ANR.doc

DATE: 3/10/2010

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Section 501(c)(3) of the Internal Revenue Code provides federal tax benefits to certain not-for-profit and charitable organizations.<sup>2</sup> Such organizations are commonly referred to as charitable organizations. To be tax exempt, an organization must be organized and operated exclusively for charitable purposes such as educational, religious, scientific, literary, fostering national or international sports competition, preventing cruelty to children or animals, or testing for public safety. Charitable organizations are reliant upon community support through the solicitation of funds as sources of revenue.

Charitable organizations or sponsors that engage in solicitation activities in Florida must register with the Department of Agriculture and Consumer Services (DACS) and provide certain financial and background information, as required by chapter 496, F.S. Before engaging in solicitation activities, charitable organizations or sponsors are required to file an initial registration statement, an annual renewal statement, and an annual financial report with the DACS.<sup>3</sup> Such registration must contain prescribed information<sup>4</sup> and be accompanied by the appropriate fee.<sup>5</sup>

Every charitable organization, sponsor, or parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates must total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees are assessed as:

- Ten dollars, if the contributions received for the last fiscal or calendar year were less than \$5,000;
- Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than \$25,000 and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such contributions, provided no part of the assets or income of such organization or sponsor inures to

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<sup>2</sup> <http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html>

<sup>3</sup> s. 496.405, F.S.

<sup>4</sup> s. 496.405(2), F.S.

<sup>5</sup> s. 496.405(4), F.S.

the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer;

- Seventy-five dollars, if the contributions received for the last fiscal year were \$5,000 or more, but less than \$100,000;
- One hundred twenty-five dollars, if the contributions received for the last fiscal year were \$100,000 or more, but less than \$200,000;
- Two hundred dollars, if the contributions received for the last fiscal year were \$200,000 or more, but less than \$500,000;
- Three hundred dollars, if the contributions received for the last fiscal year were \$500,000 or more, but less than \$1 million;
- Three hundred fifty dollars, if the contributions received for the last fiscal year were \$1 million or more, but less than \$10 million; or
- Four hundred dollars, if the contributions received for the last fiscal year were \$10 million or more.

A charitable organization or sponsor may be assessed a \$25 fee for each month of late filing after the date on which the annual renewal statement and financial report were due to be filed with the DACS.

Subject to notice and an opportunity for a hearing, the DACS is authorized to disapprove unsatisfactory registrations.<sup>6</sup> Fundraising consultants and professional solicitors are also required to register with the DACS.<sup>7</sup>

Currently, s. 496.406, F.S., provides the following exemptions to the registration requirements listed above:

- A person who is soliciting for a named individual provided that all the contributions collected without any deductions whatsoever are turned over to the beneficiary for her or his use and provided that the person has complied with certain statutory requirements, and
- A charitable organization or sponsor that limits solicitation of contributions to the membership<sup>8</sup> of the charitable organization or sponsor.

Currently, military veterans' associations and organizations do not register with the Department of Veterans Affairs.

### **Proposed Changes**

The bill amends s. 496.406, F.S., to exempt reputable military veteran's associations or organizations that are registered with the Department of Veterans' Affairs (DVA) from the registration requirements for charitable organizations and sponsors; however, such organizations do not currently register with DVA.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 496.406, F.S., exempting reputable military veteran's associations or organizations that are registered with the Department of Veterans' Affairs from the requirements to register with the Department of Agriculture and Consumer Services.

Section 2. Provides an effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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<sup>6</sup> s. 496.405(7), F.S.

<sup>7</sup> ss. 496.409, 496.410, F.S.

<sup>8</sup> For purposes of this part, the term "membership" does not include those persons who are granted a membership upon making a contribution as a result of a solicitation.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments section.

D. FISCAL COMMENTS:

According to the DACS, in Fiscal Year 2008-09, military organizations that were registered with the DACS paid annual registration fees totaling \$41,660. If the bill were to be revised to exempt the types of military organizations that are registered with the DACS, there may be a loss of said revenue.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill adds reputable military veteran's associations or organizations that are registered with the DVA to the list of exemptions from the registration requirements for charitable organizations and sponsors. Military veterans' associations and organizations do not register with the DVA, reputable or otherwise. In addition, the bill does not define "reputable" or provide for the DACS to determine if an organization is reputable.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES