



**House
Legislative
Analysis
Section**

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REGULATE SOLICITING

House Bill 5064

Sponsor: Rep. Kirk A. Profit

Committee: Public Utilities

Complete to 8-20-91

A SUMMARY OF HOUSE BILL 5064 AS INTRODUCED 8-1-91

The bill would create a new act, the "telephone solicitation act," to require fundraising organizations ("sponsors") to identify themselves and the organization for which they were fundraising, and exactly how much of someone's contribution would be going to each group. The bill also would establish criminal penalties for violators.

The bill would define "sponsor" to mean someone who solicited contributions "by the use of any name or campaign that implie[d] that [it was] in any way affiliated with, or organized for the benefit of, another person," and would prohibit "sponsors" from soliciting contributions in Michigan unless first registered with the attorney general.

Registration. Sponsors would be required to apply for a certificate of registration, under oath, on a form prescribed by the attorney general's office. The bill specifies the information that would have to be provided:

- (1) The name of the sponsor "and the purpose for which it is organized;"
- (2) the name or names under which the sponsor intended to solicit contributions;
- (3) the principal address of the sponsor and of any offices in the state;
- (4) the names and addresses of:
 - * any chapters, branches, or affiliates in Michigan;
 - * the officers, directors, trustees, and the principal executive staff officer;
 - * the person who had custody of its books and records; and
 - * the people who would be making the direct solicitation to the public;
- (5) the location and date when the sponsor was legally established, the form of its organization, and whether or not it was federally tax exempt;
- (6) whether the sponsor intended to solicit contributions from the public directly or to have others solicit contributions on its behalf (and, if so, the names and addresses of those who would be soliciting on behalf of the sponsor);
- (7) whether the sponsor was authorized by any other government authority to solicit contributions and whether it had ever been legally enjoined from soliciting contributions;
- (8) the specific purpose for which the contributions would be used and a complete breakdown by percentages of how all of the contributions would be spent by the sponsor;
- (9) the names of those who would have final responsibility for the custody of the contributions and of those who would be responsible for the final distribution of the contributions; and
- (10) any other information that the attorney general considered necessary or relevant.

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The attorney general would have to issue a certificate of registration within 30 days of receiving a completed application and the appropriate registration fee. A registration would be good for one year and could be renewed for additional one-year periods (requests for renewals would have to be in writing, accompanied by the renewal fee, and be made within 45 days before the registration was to expire).

Applications would not be accepted from sponsors outside of Michigan unless the sponsor had first designated a resident agent in Michigan. Each chapter, branch, or affiliate of a sponsor would have to apply separately for registration.

Registration applications and other information required to be filed with the attorney general would be open to public inspection under the Freedom of Information Act. Sponsors would have to notify the attorney general within 15 days of any change in the information required under the bill, and sponsors would have to supply copies of all their soliciting materials upon request by the attorney general.

Fees. Annual registration and renewal fees would be \$25, except in the case of chapters, branches, or affiliates of registered sponsors (who would have to pay only a \$10 annual fee).

Disclosure statement. Each sponsor would have to prepare a disclosure statement and submit it to the attorney general for approval. A sponsor could not solicit contributions until the disclosure statement had been approved. The statement would have to inform the solicited person that he or she was under no legal obligation to contribute and give the name and purpose of the sponsor, the specific purpose for which the contributions were to be used, and the percentage of the contribution that would actually be used for the stated purpose and a complete breakdown by percentage on how the rest of the contributions would be spent. The disclosure statement would have to be included with all printed material and read at each telephone contact.

Exemptions. The bill would exempt two categories of solicitations:

- (1) Soliciting contributions for an individual if he or she were specified by name at the time of the solicitation and all of the contributions (without any deductions) were turned over to (or promptly dedicated to the use of) the named beneficiary; and
- (2) Sponsors who received less than \$1,000 during their fiscal year if all of the group's functions (including fund-raising activities) were carried out by unpaid volunteers and if none of the group's assets or income went to the personal benefit of the group's officers or members.

Anyone exempt from the bill's registration requirements still would be required to maintain records necessary to prove their eligibility for an exemption and would have to make these records available for inspection by the attorney general. A group that had been exempt would have to register with the attorney general and pay the appropriate fees within 15 days of any change that made it no longer qualified for an exemption.

Penalties. The bill would prohibit sponsors from making misleading or false statements when soliciting contributions. Anyone who violated any of the bill's provisions

or who solicited money as a registered sponsor but diverted the money to other than the stated purpose would be guilty of a misdemeanor punishable by a fine of up to \$1,000 and six months' imprisonment. Those guilty of second or subsequent offenses also would be guilty of a misdemeanor, but could be fined up to \$5,000 and imprisoned for up to one year. The bill's penalty section would not limit or restrict prosecution under other state laws.