

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2855

Introduced by Assembly Member Frazier

February 19, 2016

An act to ~~amend~~ *add* Section ~~17510.3~~ *of 17510.86* to the Business and Professions Code, relating to charitable solicitations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2855, as amended, Frazier. Charitable ~~solicitation~~ *solicitations*: *financial* disclosures.

Existing law requires ~~certain disclosures to be made~~ *a solicitor or seller*, prior to any solicitation or sales solicitation for charitable ~~purposes~~ *purposes*, to provide the prospective donor or purchaser with *certain disclosures, including, among others, the name and address of the combined campaign, each organization or fund on behalf of which money collected will be utilized, and the percentage of the total gift or purchase price that may be deducted as a charitable contribution under both federal and state law. Under existing law, a violation of certain advertising restrictions, including charitable solicitation requirements, is a crime.*

This bill would ~~make a nonsubstantive change to this provision~~ *require an Internet Web site produced by, or on behalf of, a charity to contain an Internet Web page that includes a disclosure of the charity's administrative overhead expenses and a copy of the charity's most recent Internal Revenue Service Form 990 filing and would further require each Internet Web page on the Internet Web site to contain a direct link to that financial disclosures Internet Web page, as specified. The bill would also require a document produced by, or on behalf of,*

a charity for solicitation for charitable purposes to include a disclosure statement indicating the percentage of the charity’s funding spent on those administrative overhead expenses, as specified. As a violation of these requirements would be a crime, this bill would impose a state-mandated local program.

This bill would authorize the Attorney General to enforce these requirements by directing the Franchise Tax Board to suspend or revoke a violating charity’s tax-exempt status, by suspending or revoking the registration of a violating charity, or by taking any other enforcement action pursuant to the Attorney General’s existing powers and duties, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17510.86 is added to the Business and
- 2 Professions Code, to read:
- 3 17510.86. (a) An Internet Web site produced by, or on behalf
- 4 of, a charity that operates, or engages in the solicitation for
- 5 charitable purposes of funds or other property, in this state shall
- 6 comply with both of the following:
- 7 (1) The Internet Web site shall contain a financial disclosures
- 8 Internet Web page, which shall include both of the following:
- 9 (A) A disclosure of the sum total of the salaries, other
- 10 compensation, and employee benefits of the charity’s executive
- 11 director and board of directors and all of the charity’s other
- 12 administrative overhead expenses, as reported on the charity’s
- 13 most recent Internal Revenue Service Form 990 filing. The
- 14 disclosure shall be set forth in at least 14-point, bold, sans serif
- 15 type font and shall be clear and conspicuous, as defined in Section
- 16 17601.
- 17 (B) A complete copy of the charity’s most recent Internal
- 18 Revenue Service Form 990 filing.

1 (2) Each Internet Web page on the Internet Web site shall
2 include a direct link to the financial disclosures Internet Web page
3 required pursuant to paragraph (1). The direct link shall contain
4 the phrase “Click here to read a full disclosure of the finances,
5 including the salaries and expenses, of this organization,” shall
6 be placed in the top right corner of each Internet Web page in at
7 least 14-point, bold, sans serif type font, and shall be clear and
8 conspicuous, as defined in Section 17601.

9 (b) (1) A document produced by, or on behalf of, a charity for
10 the solicitation for charitable purposes of funds or other property
11 in this state shall include a disclosure statement indicating the
12 percentage of the charity’s funding that is spent on the sum total
13 of the salaries, other compensation, and employee benefits of the
14 charity’s executive director and board of directors and all of the
15 charity’s other administrative overhead expenses, as reported on
16 the charity’s most recent Internal Revenue Service Form 990 filing.

17 (2) The disclosure statement shall be printed on the first page
18 of the document in at least 14-point, bold, sans serif type font and
19 shall be clear and conspicuous, as defined in Section 17601.

20 (c) The Attorney General may enforce this section by taking
21 any of the following actions against a charity that provides false
22 information or otherwise violates this section:

23 (1) Directing the Franchise Tax Board to suspend or revoke
24 the charity’s exemption from the taxes imposed by the Corporation
25 Tax Law (Part 11 (commencing with Section 23001) of Division
26 2 of the Revenue and Taxation Code). The suspension or revocation
27 shall become effective immediately upon receipt by the Franchise
28 Tax Board, and the Franchise Tax Board shall reinstate the
29 exemption only upon subsequent notification by the Attorney
30 General that the charity is in compliance with this section.

31 (2) Refusing to register, or revoking or suspending the
32 registration of, a charity pursuant to the Supervision of Trustees
33 and Fundraisers for Charitable Purposes Act (Article 7
34 (commencing with Section 12580) of Chapter 6 of Part 2 of
35 Division 3 of Title 2 of the Government Code).

36 (3) Taking any other enforcement action pursuant to the
37 Attorney General’s existing powers and duties.

38 SEC. 2. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 *district will be incurred because this act creates a new crime or*
 2 *infraction, eliminates a crime or infraction, or changes the penalty*
 3 *for a crime or infraction, within the meaning of Section 17556 of*
 4 *the Government Code, or changes the definition of a crime within*
 5 *the meaning of Section 6 of Article XIII B of the California*
 6 *Constitution.*

7 SECTION 1. ~~Section 17510.3 of the Business and Professions~~
 8 ~~Code is amended to read:~~

9 ~~17510.3. (a) Prior to any solicitation or sales solicitation for~~
 10 ~~charitable purposes, the solicitor or seller shall exhibit to the~~
 11 ~~prospective donor or purchaser a card entitled "Solicitation or Sale~~
 12 ~~for Charitable Purposes Card." The card shall be signed and dated~~
 13 ~~under penalty of perjury by an individual who is a principal, staff~~
 14 ~~member, or officer of the soliciting organization. The card shall~~
 15 ~~give the name and address of the soliciting organization or the~~
 16 ~~person who signed the card and the name and business address of~~
 17 ~~the paid individual who is doing the actual soliciting.~~

18 ~~In lieu of exhibiting a card, the solicitor or seller may distribute~~
 19 ~~during the course of the solicitation any printed material, such as~~
 20 ~~a solicitation brochure, provided the material complies with the~~
 21 ~~standards set forth below, and provided that the solicitor or seller~~
 22 ~~informs the prospective donor or purchaser that the information~~
 23 ~~as required below is contained in the printed material.~~

24 ~~Information on the card or printed material shall be presented~~
 25 ~~in at least 10-point type and shall include the following:~~

26 ~~(1) The name and address of the combined campaign, each~~
 27 ~~organization, or fund on behalf of which all or any part of the~~
 28 ~~money collected will be utilized for charitable purposes.~~

29 ~~(2) If there is no organization or fund, the manner in which the~~
 30 ~~money collected will be utilized for charitable purposes.~~

31 ~~(3) The non-tax-exempt status of the organization or fund, if~~
 32 ~~the organization or fund for which the money or funds are being~~
 33 ~~solicited does not have a charitable tax exemption under both~~
 34 ~~federal and state law.~~

35 ~~(4) The percentage of the total gift or purchase price which may~~
 36 ~~be deducted as a charitable contribution under both federal and~~
 37 ~~state law. If no portion is so deductible the card shall state that~~
 38 ~~"This contribution is not tax deductible."~~

39 ~~(5) If the organization making the solicitation represents any~~
 40 ~~nongovernmental organization by any name which includes, but~~

1 is not limited to, the term “officer,” “peace officer,” “police,” “law
2 enforcement,” “reserve officer,” “deputy,” “California Highway
3 Patrol,” “Highway Patrol,” “deputy sheriff,” “firefighter,” or “fire
4 marshall,” which would reasonably be understood to imply that
5 the organization is composed of law enforcement or firefighting
6 personnel, the solicitor shall give the total number of members in
7 the organization and the number of members working or living
8 within the county where the solicitation is being made, and if the
9 solicitation is for advertising, the statewide circulation of the
10 publication in which the solicited ad will appear.

11 (6) If the organization making the solicitation represents any
12 nongovernmental organization by any name which includes, but
13 is not limited to, the term “veteran” or “veterans,” which would
14 reasonably be understood to imply that the organization is
15 composed of veterans, the solicitor shall give the total number of
16 members in the organization and the number of members working
17 or living within the county where the solicitation is being made.
18 This paragraph does not apply to federally chartered or state
19 incorporated veterans’ organizations with 200 or more dues paying
20 members or to a thrift store operated or controlled by a federally
21 chartered or state incorporated veterans’ organization. This
22 paragraph does not apply to any state incorporated
23 community-based organization that provides direct services to
24 veterans and their families and qualifies as a tax-exempt
25 organization under Section 501(c)(3) or 501(c)(19) of the Internal
26 Revenue Code and Section 23701d of the Revenue and Taxation
27 Code.

28 (b) Knowing and willful noncompliance by any individual
29 volunteer who receives no compensation of any type from or in
30 connection with a solicitation by any charitable organization shall
31 subject the solicitor or seller to the penalties of the law.

32 (c) When the solicitation is not a sales solicitation, any
33 individual volunteer who receives no compensation of any type
34 from, or in connection with, a solicitation by any charitable
35 organization may comply with the disclosure provisions by
36 providing the name and address of the charitable organization on
37 behalf of which all or any part of the money collected will be
38 utilized for charitable purposes, by stating the charitable purposes
39 for which the solicitation is made, and by stating to the person
40 solicited that information about revenues and expenses of the

1 organization, including its administration and fundraising costs,
2 may be obtained by contacting the organization's office at the
3 address disclosed. The organization shall provide this information
4 to the person solicited within seven days after receipt of the request.
5 (d) A volunteer who receives no compensation of any type from,
6 or in connection with, a solicitation or sales solicitation by a
7 charitable organization that has qualified for a tax exemption under
8 Section 501(c)(3) of the Internal Revenue Code, and who is 18
9 years of age or younger, is not required to make any disclosures
10 pursuant to this section.
11 (e) If any provision of this section or the application thereof to
12 any person or circumstances is held invalid, that invalidity shall
13 not affect other provisions or applications of this section that can
14 be given effect without the invalid provision or application, and
15 to this end the provisions of this section are severable.