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Office

H.B. 184
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by House State and Local Government

Primary Sponsors: Reps. Bird and Brennan

Local Impact Statement Procedure Required: No

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Highlights

- The bill will increase the administrative and enforcement workload costs of the Attorney General's Charitable Law Section. Those costs could be at least partially offset by additional registration and new "charitable campaign" fee revenue credited to the Charitable Law Fund (Fund 4180) and potentially certain civil penalties, if collected.

Detailed Analysis

The bill adds operators of collection receptacles that are used to collect donations of clothing, books, personal or household items, or other goods under the regulation of the Ohio Charitable Solicitation Law.¹ The bill also makes various changes to the Charitable Solicitation Law related to filing requirements, limitations on the duration of solicitations, and recordkeeping.

The Ohio Charitable Solicitation Law (enforced by the Attorney General) provides for the regulation of charitable organizations and professional solicitors.² Under the law, professional solicitors must register annually with the Attorney General before engaging in any solicitation. Registrants must pay a \$200 application fee, credited to the Charitable Law Fund (Fund 4180), and post a \$25,000 bond. The bill extends the same requirements to those who operate collection receptacles or operate them under a contract with a charitable organization. The bill also requires professional solicitors to pay an additional \$200 fee prior to commencing any "charitable campaign." As of October 2023, 107 professional solicitors were registered with the

¹ R.C. Chapter 1716.

² Professional solicitors generally perform, for compensation, services related to soliciting contributions that benefit charitable organizations.

Attorney General. It is unknown how many charitable collection receptacles are operating through solicitors not already registered with the state.

Collectively, the bill's regulatory changes to filing requirements, limitations on the duration of solicitations, and recordkeeping would increase transparency and accountability of professional solicitors and curtail misleading or deceptive practices. For example, the bill's regulations that require professional solicitors to maintain audio recordings of telephone solicitations for up to three years, and operators of collection receptacles to display a certain information would seemingly assist the Attorney General in investigating misconduct.

Fiscal effect

The bill's requirement that operators of these receptacles register as professional solicitors may increase the Attorney General's Charitable Law Section regulatory workload, including potentially maintaining more files, investigating violations of the new requirements, and pursuing additional enforcement actions. The Attorney General expects a related cost increase since the office does not currently track or investigate the use of collection receptacles. While the magnitude is uncertain, the additional fee revenue should at least partially offset any costs.

Unchanged by the bill, the Attorney General may file a petition in the appropriate court of common pleas to issue an order for the enforcement of the Charitable Solicitations Law. In practice however, few cases are resolved via court action and instead are resolved administratively by the Attorney General. If the case proceeds to this stage, the court may assess a civil penalty of not more than \$10,000 for each violation, credited to Fund 4180. The court also may award the Attorney General the costs of investigation and litigation and reasonable attorney's fees. Failure to comply with the court order or avoiding, evading, or preventing compliance with an investigation may be punished for contempt of court or by imposing an additional civil penalty of up to \$10,000.

Violations of the bill's new requirements relative to collection receptacles may also be subject to a criminal penalty, specifically a first degree misdemeanor, punishable by up to 180 days in jail, a fine of up to \$1,000, or both. Any person who is found guilty under Chapter 1716 is required to forfeit their bond to the state treasury to the credit of Fund 4180 and is prohibited from registering with the Attorney General or from serving as a fundraising counsel or professional solicitor in Ohio for five years after conviction.

The bill will not generate a significant number of additional charitable solicitation cases for local criminal and civil justice systems to process. Evidence suggests there are very few cases related to charitable solicitation violations are filed annually. Any increase in operating costs will likely be no more than minimal and absorbed by existing staff and resources.