

August 2, 1977

DISCLOSURE FOR CHARITABLE ORGANIZATIONS

Amendment to Title 39 of the United States Code, to require the furnishing of certain information in connection with the solicitation of charitable contributions by mail.

Status

The bill was introduced on January 4, 1977, by Congressman Charles H. Wilson of California and referred to the House Committee on Post Office and Civil Service. It is pending in the Postal Personnel and Modernization Subcommittee, where hearings and mark-up were held on March 24, 29, and 30, 1977, and on July 14 and 25, 1977, respectively. On July 25, 1977, H. R. 41 was voted out of subcommittee 4 to 3. No similar bill has been introduced in the Senate.

Background

Last year, it has been estimated, Americans gave nearly \$29 billion to philanthropic organizations. The staggering amount of money so raised in recent years has caused several bills concerning financial disclosures for charitable organizations to be introduced, although none have passed. For the purposes of this bill, the term "charitable contribution means any person (including any individual, partnership, association, trust, society, foundation, or corporation),

which is organized, or which claims to be organized, for any charitable, scientific, literary, medical, religious, or educational purposes, or for the prevention of cruelty to children or animals, or for any other eleemosynary purpose". The broad nature of this definition of a "charitable organization" unnecessarily encompasses many organizations not primarily engaged in fund raising activities. Such legislation would require that all organizations provide information at the time of solicitation to explain what the charitable purpose actually is, and how much of the money received in the previous year actually was spent for that charitable purpose as contrasted to fund raising and administrative costs.

Proponents of H. R. 41 and similar legislation argue that public disclosure would end such operations as the now-famous solicitation of the Pallottine Fathers based in Baltimore, Md., who raised \$20 million allegedly for "overseas missions" but, according to the Maryland State Attorney General's Office, spent only about 10 percent of the money collected for such purposes, and invested at home much of the rest.

Organizations that are managed as poorly as the Pallottine Fathers are rare. According to the testimony of Francis S. Andrews, President of American Fund Raising Services, before a subcommittee on H. R. 5269 on July 23, 1975, "this bill and many others at the state and Federal level seek to impose on all charitable organizations a burden which belongs only to a few. Mr Andrews further stated, "Of this tiny group, there are possibly fifteen or twenty charities which could be termed questionable, and these organizations are well known to postal authorities responsible for mail fraud." Currently, there are sufficient laws to enforce against fraud. Opponents to H. R. 41 feel that efforts should be made to tighten existing fraud statutes, rather than enacting new sweeping legislation.

It is conceivable that H. R. 41 would have the effect of lowering the amount of contributions received by poorly managed organizations like the Pallottine Fathers yet it is doubtful that it would put an end to such organizations. Without knowledge of what constitutes an abnormal expense percentage, thousands of Americans will continue to support these fraudulent organizations. The choice is left to the individual.

In introducing H. R. 41 on January 4, 1977, Congressman Charles H. Wilson stated that this legislation will give "the potential contributor, for the first time, a straightforward disclosure so that he or she can make a more educated judgment about which organization to give to" and that "contributors must have blind faith that their hard earned money

will be spent prudently and for purposes originally claimed." Yet, leaders of the opposition to H.R. 41 claim that all legitimate charitable organizations publish a financial statement providing much, if not all, of the information required by the proposed bill. In most cases, these statements are available for public examination. Also, the private sector provides for the services of several organizations which set standards for charitable organizations and report on their efficiency and worthiness. Two of these groups are the National Information Bureau in New York and the Better Business Bureau. Whenever possible, these organizations are available to provide prospective donors with concise and pertinent information.

Any charitable organization which solicits contributions by mail would have to include specific information with the mail solicitation including the following:

- a. the legal name and business address of the charitable organization;
- b. the purpose of the solicitation and intended use of the contribution solicited;
- c. within 30 days, a financial statement for the most recent fiscal year;
- d. the percentage of all contributions used for the ultimate charitable purpose of the organization after deducting all fund raising, management, and general costs during the most recent fiscal year;
- e. in the case of a federated fund raising organization, with certain exceptions, "the portion of all contributions distributed or allocated to its member organizations."

Information furnished must be "presented in language which is readily understandable by those persons to whom the solicitation is directed," should be located in a conspicuous place on such solicitation, and must appear in "conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such solicitation."

Charitable solicitation made by radio or television must be in readily understandable language, with any radio or television solicitation less than 60 seconds exempt from this provision.

Any charitable organization soliciting funds by mail must furnish to the Postal Service any information requested to verify information on the organization.

The above provisions would not apply to membership organizations when soliciting their own members; schools, colleges, and universities when soliciting their students, alumni, faculty, governing boards, committees, or family members of such individuals; and charitable organizations authorized by and exclusively making expenditures to a school, college, or university when soliciting such individuals.

The entire act would take effect within three years of enactment. However, provisions a, b and c of the information to be included with solicitation will go into effect 18 months from the date of enactment.

This bill would provide the prospective contributor with an additional measure of protection against organizations which make fraudulent appeals for funds. Disclosure would cause poorly managed organizations to operate more honestly and efficiently.

All charities would be required to develop responsible accounting and bookkeeping procedures to insure that fund raising percentages are accurate.

Federal regulation of charities could cause an end to redundant state legislation concerning charitable organizations.

This bill would discriminate against new charitable organizations and those with necessarily high fund raising costs. Start-up costs for new organizations would reflect unnaturally high fund raising costs and discourage prospective contributors. Likewise, the revelation of high fund raising costs for organizations who campaign against V.D., leprosy, and other unpopular diseases would be disastrous to any fund raising effort. The general public would not have adequate information or background to evaluate the complexities of the fund-raising business by just being presented with the cost percentages involved.

By giving the U. S. Postal Service the power to request the financial records of all charitable organizations, the Federal government would be, in effect, eliminating the confidentiality of contributors to non-profit organizations. There would be great potential for interference with fund raising

operations of groups out of favor with the political party controlling the executive branch. "Leaks" of information on potential fund raising operations, information fed to the media on organizations "under investigation" by the Internal Revenue Service, and mail stops ordered by the U. S. Postal Service could be detrimental to any of these groups. Tremendous power would be placed in the hands of one of the least efficient government agencies, the U. S. Postal Service.

By not exempting religious organizations, the legislation, if enacted, would infringe on freedom of religion, thus creating the probability of the law's being challenged on constitutional grounds. Without proper separation of church and state, innocent misinterpretations of I.R.S. definitions and bookkeeping methods would leave church leaders open to vicious accusations of fraud by Post Office officials.

To produce, print and enclose a mini-report, revised for each appeal, will incur a wasteful burden of time and money, causing more of the contributions collected to be spent as fund raising costs rather than for the charitable purpose intended.

Opponents of H. R. 41 fear that this measure is the first step in a legislative strategy to eliminate tax-exempt status for all non-profit organizations. This measure would allow the Federal government to use confidential records to make accusations against charitable organizations, thus instilling skepticism in the minds of prospective contributors. Declining contributions received by charities would cause less charitable benefits to be provided for within the private sector, opening the way for increased public funding (along with federal control) for social causes.

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