

CHAPTER 483

H.B. No. 1899

AN ACT

relating to solicitations for veterans organizations; providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Title 132, Revised Statutes, is amended by adding Article 9023b to read as follows:

*Art. 9023b. SOLICITATION IN NAME OF VETERANS ORGANIZATION*

*Sec. 1. DEFINITIONS. In this article:*

(1) "Person" means an individual, corporation, organization, business trust, partnership, association, or other private legal entity.

(2) "Solicitor" means a person who receives monetary compensation for the person's solicitation services on behalf of a veterans organization and who:

(A) solicits a contribution of financial support or a purchase of goods or services on behalf of a veterans organization in person, by telephone, or by mail; or

(B) solicits membership in a veterans organization from individuals who are not veterans.

(3) "Veteran" means a person who has served on active duty in the armed forces of the United States or in the state military forces as defined by Section 431.001, Government Code.

(4) "Veterans organization" means a nongovernmental entity that:

(A) is formed formally or informally and purports to include or represent veterans; or

(B) includes in its name a term that would lead a reasonable person to assume that the organization is associated with veterans or concerned with veterans' issues.

Sec. 2. REGISTRATION REQUIRED. (a) A veterans organization may not use a solicitor unless:

(1) the veterans organization has:

- (A) filed a registration statement as required by Section 4 of this article; and
- (B) filed and maintains a bond as required by Section 5 of this article; and

(2) the solicitor has:

- (A) filed a registration statement as required by Section 6 of this article; and
- (B) filed and maintains a bond as required by Section 7 of this article.

(b) A person may not act as a solicitor for a veterans organization unless the person has:

- (1) filed a registration statement as required by Section 6 of this article; and
- (2) filed and maintains a bond as required by Section 7 of this article.

**Sec. 3. ELIGIBILITY.** (a) A veterans organization is eligible to register under Section 4 of this article and use a solicitor if the organization:

(1) consists of members:

- (A) who are individuals;
- (B) of whom at least 90 percent or 500, whichever is less, are veterans; and
- (C) who have signed written membership agreements with the organization.

(b) A veterans organization is not eligible to use a solicitor if the organization has forfeited on three or more occasions a bond filed under this article.

(c) A solicitor is not eligible to solicit on behalf of a veterans organization if the solicitor has forfeited on three or more occasions a bond under this article.

**Sec. 4. VETERANS ORGANIZATIONS REGISTRATION STATEMENT.** (a) Before beginning solicitations, a veterans organization must have on file with the secretary of state for public disclosure a registration statement containing:

(1) the name, street address, and telephone number of each solicitor that solicits on behalf of the veterans organization;

(2) the name, street address, and telephone number of each veterans organization or fund on behalf of which all or part of the contributions will be used, or, if there is no organization or fund, a statement describing the manner in which the contributions will be used;

(3) a statement of whether the veterans organization or fund for which the contributions are solicited has a charitable tax exemption under both federal and state law;

(4) the name of each veteran who serves on the board of directors or governing body of the veterans organization or fund for which the contributions are solicited, if any;

(5) the number of members who are veterans and the percentage of members of the veterans organization who are veterans, as determined on December 31 preceding the year in which the statement is filed;

(6) the name of each local, chapter, lodge, association, or group of veterans that is a member of the veterans organization for which contributions are solicited, if any;

(7) a copy of the Internal Revenue Service Form 990, or its successors, the veterans organizations most recently filed with the Internal Revenue Service, if any; and

(8) the name, address, and telephone number of the surety bond required by Section 5 of this article.

(b) The registration statement required by Subsection (a) of this section must be accompanied by a registration fee in the amount of \$150 and the original copy of the bond required by Section 5 of this article.

(c) A veterans organization that has filed a registration statement under Subsection (a) of this section and that continues to make solicitations through a solicitor shall file an updated statement with the secretary of state on or before January 15 of each year during which solicitations will occur.

**Sec. 5. VETERANS ORGANIZATION BOND.** (a) A veterans organization that uses a solicitor shall post a surety bond with the secretary of state in the amount of:

(1) \$1,000 if the organization is a veterans organization chartered by the United States Congress; or

(2) if the organization is not chartered by the United States Congress:

(A) \$5,000 if the organization solicits in not more than one county;

(B) \$10,000 if the organization solicits in more than one county but fewer than six counties; or

(C) \$25,000 if the organization solicits in six or more counties.

(b) The bond must be payable to the state and conditioned on compliance with this article.

**Sec. 6. SOLICITOR REGISTRATION STATEMENT; FEE.** (a) Before beginning solicitations for a veterans organization, a solicitor must have on file with the secretary of state for public disclosure a registration statement containing:

(1) the name, address, and telephone number of the solicitor;

(2) the name, address, and telephone number of each veterans organization on whose behalf the solicitor solicits or will solicit; and

(3) the name of each other state in which the solicitor is registered as a solicitor and the status of that registration.

(b) The registration statement required by Subsection (a) of this section must be accompanied by a registration fee in the amount of \$500 and a bond as required by Section 7 of this article.

(c) A solicitor that has filed a registration statement under Subsection (a) of this section shall file an updated statement with the secretary of state on or before January 15 of each year during which the solicitor will solicit on behalf of a veterans organization.

**Sec. 7. SOLICITOR BOND.** (a) A solicitor shall post a surety bond with the secretary of state in the amount of:

(1) \$5,000 if the solicitor solicits in not more than one county;

(2) \$10,000 if the solicitor solicits in more than one county but fewer than six counties; or

(3) \$25,000 if the solicitor solicits in six or more counties.

(b) The bond must be payable to the state and conditioned on compliance with this article.

**Sec. 8. DISCLOSURE AT TIME OF SOLICITATION.** A solicitor shall disclose at the time each solicitation is made, orally if the solicitation is in person or by telephone and by printed notice in any printed matter distributed by the solicitor, the following information: "The secretary of state has on file important information about persons that seek contributions in the name of veterans, and the number to call about that information is the Solicitation Information Hotline (the number maintained by the secretary of state)."

**Sec. 9. SOLICITATION INFORMATION HOTLINE.** The secretary of state shall establish and operate a toll-free telephone line known as the Solicitation Information Hotline. A member of the public may telephone the hotline number to:

(1) obtain information concerning a veterans organization or solicitor that has filed a statement with the secretary of state under this article; or

(2) report an alleged violation of this article by a solicitor or a veterans organization.

**Sec. 10. SOLICITOR REPORTS.** (a) At the end of each calendar quarter, a solicitor who raises more than \$5,000 for a veterans organization during that calendar quarter shall file with the secretary of state a report that includes:

(1) the name, address, and telephone number of the solicitor;

(2) the gross amount raised by the solicitor for the veterans organization;

(3) the amount paid to the veterans organization; and

(4) the name and address of the person representing the veterans organization to which the amount was paid.

(b) A filing fee of \$50 must accompany each report filed under this section.

**Sec. 11. VETERANS ORGANIZATION REPORTS.** (a) Before January 15 of each year, each veterans organization that received more than \$500 in solicited funds during the preceding calendar year shall file with the secretary of state a report that includes:

(1) the name and address of the veterans organization and each officer who is authorized to spend funds of the organization; and

(2) the total amounts from all sources spent by the organization for each of the following:

(A) administrative expenses;

(B) travel expenses of officers of the organization;

(C) travel expenses of each member of the organization;

(D) gifts to veterans or other veterans organizations;

(E) gifts to nonveterans;

(F) payments for the purchase, rental, or lease of and repairs to facilities used by the organization; and

(G) any other expenditures.

(b) A filing fee of \$50 must accompany each report filed under this section.

(c) A veterans organization that is chartered by the United States Congress and that has subsidiary organizations may:

(1) collect the reports of the subsidiary organizations; and

(2) file its report and the reports of its subsidiary organizations at one time and pay a single filing fee.

(d) If funds of a veterans organization are given to an individual for the individual's personal use, the organization shall require the individual to sign a receipt for the funds before the funds are delivered. The organization shall keep receipts for all expenditures on file for a period of seven years.

(e) The reports and receipts to which this section applies are public records and the veterans organization shall make them available to any person who requests them in writing.

**Sec. 12. PROHIBITED PRACTICES.** (a) A solicitor may not solicit on behalf of a veterans organization in counties other than counties that the veterans organization serves unless the solicitor discloses the county or counties actually served by the organization.

(b) A contribution or membership fee solicited at a person's residence in person or by telephone may not be collected except through the United States mail or parcel post courier.

(c) A solicitor may not make a materially false or misleading statement of fact during a solicitation that would lead a responsible person to believe that proceeds of the solicitation are being used or will be used for a purpose other than the purpose for which the proceeds are actually used.

(d) A solicitor or a veterans organization may not make a material misrepresentation in a registration statement filed under this article.

(e) For purposes of Subsection (d) of this section, overreporting the number of veterans who are members of the veterans organization by more than three percent of the organization's total membership is a material misrepresentation.

**Sec. 13. OFFENSES; PENALTIES.** (a) A person commits an offense if the person knowingly violates this article.

(b) An offense under this section is a Class B misdemeanor, except that if it is shown on trial of the offense that the defendant has been convicted previously under this section, the offense is a Class A misdemeanor.

(c) A corporation or association may be held criminally responsible for the conduct of a person acting on its behalf if the person's conduct constitutes an offense under this section.

(d) It is a defense to prosecution under this section that:

(1) the defendant is a veterans organization;

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(2) the person whose conduct constitutes the offense was acting on behalf of a corporation or association with which the veterans organization had contracted for services; and

(3) the person committed the conduct without the knowledge of the veterans organization.

Sec. 14. **AUDIT POWERS OF THE ATTORNEY GENERAL.** (a) The attorney general may request reasonable and necessary information from a veterans organization or a solicitor for the purpose of auditing or verifying the representations contained in a registration statement required by this article.

(b) The attorney general may audit representations made by a solicitor during a solicitation to determine whether the solicitation complies with this article.

Sec. 15. **INJUNCTION.** The attorney general may sue in a district court of Travis County to enjoin a person from violating this article. The attorney general shall notify the defendant of the alleged prohibited conduct not later than the seventh day before the date the suit is filed, unless the attorney general intends to request that the court issue a temporary restraining order, in which event notice is not required.

Sec. 16. **CIVIL PENALTIES.** A person who violates any provision of this article is liable to the state for a civil penalty of not more than \$10,000 per violation. A person who violates an injunction issued under this article is liable to the state for a civil penalty of not less than \$100,000. The attorney general shall bring suit to recover the civil penalty. If the violator has filed a bond under this article, the suit may be brought against the bond.

Sec. 17. **SUIT ON BOND BY INJURED PARTY.** (a) A person who is injured by a violation of this article may bring and maintain a suit or join in a suit brought by the state to recover against a bond filed under this article. In a suit brought under this article, the court may assess costs of litigation and reasonable attorney's fees incurred by a plaintiff other than the state or by a defendant who substantially prevails.

(b) In a suit brought by a private plaintiff and the state under this article, if the amount claimed exceeds the amount of the bond, a bond forfeiture first pays the private plaintiff's damages and attorney's fees and any remaining amount is forfeited to the state.

(c) Nothing in this article prevents the state or an injured party from suing to recover a contribution obtained by misrepresentation or limits other causes of action available to a plaintiff by statute or common law.

Sec. 18. **LOCAL ORDINANCES.** This article does not preempt or supersede any municipal ordinance applicable to a veterans organization or a solicitor.

SECTION 2. This Act takes effect September 1, 1993.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 11, 1993, by a non-record vote; passed by the Senate on May 21, 1993, by a viva-voce vote.

Approved June 9, 1993.

Effective Sept. 1, 1993.