

6/22/24 3-24 11/24/19

SENATE FILE 45

By RUSH

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the solicitation of public donations, and
2 providing a penalty for violations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section one hundred twenty-two point one
2 (122.1), Code 1979, is amended by striking the section and
3 inserting in lieu thereof the following:

4 122.1 PERMIT REQUIRED--BOND--APPLICATION--EXCEPTIONS.

5 1. A person, as defined in section four point one (4.1),
6 subsection thirteen (13) of the Code, but excluding a
7 government or governmental subdivision or agency, shall not,
8 except as provided in subsection four (4) of this section,
9 solicit public donations in this state unless the person
10 possesses a current permit issued by the secretary of state
11 and maintains with the secretary of state a current surety
12 company bond in the sum of one thousand dollars or in a sum
13 equal to the amount of public donations received by the person
14 in this state in the previous accounting year, whichever is
15 greater. The bond shall run to the state and be conditioned
16 that the person will devote all donations directly to the
17 purpose stated and for which the donations were given, and
18 will otherwise comply with the requirements established by
19 the secretary of state.

20 2. A permit shall expire annually on the thirty-first
21 day of January following the date of issuance, or if a
22 permittee utilizes fiscal year accounting, the secretary of
23 state shall allow the permit, upon request made by the
24 applicant or permittee, to expire on the last day of the month
25 which follows the last month in the permittee's fiscal year.
26 A permit shall not be reissued unless the permittee timely
27 has filed the report required by section three (3) of this
28 Act.

29 3. The secretary of state shall require a new applicant
30 for a permit to submit a completed application form provided
31 by the secretary of state, which form shall include the purpose
32 for public solicitation of donations, the proposed method
33 of public solicitation, proposed specific uses of public
34 donations, and other necessary information required by the
35 secretary of state. The secretary of state shall issue a

1 permit if the following conditions are met:

- 2 a. The applicant is reputable.
- 3 b. The applicant has in good faith disclosed all
- 4 information required by the secretary of state.
- 5 c. The purpose for the public solicitation is legitimate.
- 6 d. The public solicitation would not otherwise be contrary
- 7 to law.

8 4. A permit is not required for the following:

- 9 a. A bona fide individual member of a local nonprofit
- 10 organization, church, or school, or a recognized branch or
- 11 society of a church or school, soliciting public donations
- 12 for the local nonprofit organization, church, or school, or
- 13 recognized branch or society, from within the county in which
- 14 the individual member resides, or in which the local nonprofit
- 15 organization, church, or school, or recognized branch or
- 16 society is located, or within an adjoining county.
- 17 b. A person soliciting public donations for a political
- 18 party, a ballot issue, or a candidate seeking public office.

19 Sec. 2. Section one hundred twenty-two point three (122.3),
20 Code 1979, is amended by striking the section and inserting
21 in lieu thereof the following:

22 122.3 SUSPENSION OR REVOCATION OF PERMIT. A permit may
23 be suspended or revoked by the secretary of state when the
24 permittee has solicited or is soliciting public donations
25 in one or more of the following manners:

- 26 1. For purposes other than those included in the applica-
- 27 tion or annual report.
- 28 2. Through the use of unfair or misleading methods of
- 29 public solicitation.
- 30 3. Through the use of donations in a way which tends to
- 31 defeat the purposes for which the donations were solicited
- 32 or given.
- 33 4. Contrary to rules established by the secretary of
- 34 state.

35 Sec. 3. Section one hundred twenty-two point four (122.4),

1 Code 1979, is amended by striking the section and inserting
2 in lieu thereof the following:

3 122.4 ANNUAL REPORT.

4 1. A permittee shall file a verified annual report with
5 the secretary of state during the month of January, or, if
6 the permittee utilizes fiscal year accounting, the secretary
7 of state shall allow the permittee, upon request made by the
8 permittee, to file the report during the month which follows
9 the last month in the permittee's fiscal year. However, the
10 secretary of state by rule may allow the permittee to file
11 the report at a later date but not later than four months
12 from the end of the permittee's accounting year. The report
13 shall contain the following information:

14 a. The names and residential addresses of its officers,
15 and whether any change has been made during the accounting
16 year previous to making the report.

17 b. A detailed statement of all monies received during
18 the accounting year previous to making the report.

19 c. A detailed statement of monies disbursed during the
20 accounting year previous to making the report, and the purposes
21 of the disbursements, including but not limited to, salaries,
22 expenses of officers and employees, and other administrative
23 expenses.

24 2. At the time of filing the annual report the permittee
25 shall pay to the secretary of state a filing fee of two
26 dollars. The secretary of state shall not accept a report
27 unless it is in substantial compliance with the provisions
28 of this section, and a permit shall not be reissued unless
29 the annual report has been accepted by the secretary of state.

30 Sec. 4. Section one hundred twenty-two point five (122.5),
31 Code 1979, is amended to read as follows:

32 122.5 ENFORCEMENT.

33 1. The secretary of state shall enforce the provisions
34 of this chapter and may ~~call-to-his~~ request the aid of the
35 attorney general, ~~the~~ a county attorney ~~of-any-county~~, and

1 ~~any~~ or a peace officer in the state, for the purpose of
2 investigation and prosecution. He ~~The secretary~~ may call
3 upon the extension division of the state University of Iowa
4 ~~and or~~ the commissioner of the department of social services
5 for assistance.

6 2. The attorney general or a county attorney from the
7 county in which a violation of this chapter has occurred is
8 authorized to bring an action in the district court to enjoin
9 a person from violating the provisions of this chapter.

10 Sec. 5. Chapter one hundred twenty-two (122), Code 1979,
11 is amended by adding the following new section:

12 NEW SECTION. RULES. The secretary of state shall adopt
13 and enforce rules designed to accomplish the purposes of this
14 chapter. The rules shall relate to:

- 15 1. Permit issuance, expiration, suspension, and revoca-
- 16 tion.
- 17 2. Application and reporting procedures.
- 18 3. Purposes for which public donations may be solicited.
- 19 4. Methods of public solicitation which may be used.
- 20 5. Enforcement.
- 21 6. Review and appeal.

22 Sec. 6. This Act shall become effective on January first
23 following its enactment.

24 EXPLANATION

25 This bill amends chapter 122 of the Code (Organizations
26 Soliciting Public Donations) and requires all persons,
27 including individuals, corporations, organizations,
28 institutions, and charitable associations which solicit public
29 donations to obtain an annual permit from and to submit a
30 surety bond to the secretary of state. The soliciting entity
31 is no longer required to be a corporation and now includes
32 an individual. However, the exemption from the permit and
33 reporting requirements is retained for bona fide individual
34 members who solicit public donations for their local non-
35 profit organization, church, or school within the local area.

1 A new exemption is added for persons who solicit donations
2 for political parties, ballot issues, or candidates seeking
3 public office.

4 The required bond is increased to the amount of the prior
5 year's donations if the donations exceeded \$1,000. A verified
6 annual report of a permittee's income and expenditures is
7 required including the names and addresses of its officers.
8 The month for issuance of a permit and for filing the annual
9 report is changed to January for permittees utilizing calendar
10 year accounting, or to the month after the close of the fiscal
11 year for permittees utilizing fiscal year accounting. However,
12 the secretary of state may allow the filing of the report
13 at a later date. The attorney general or the county attorney
14 of the county in which a violation occurs is authorized to
15 bring an action to enjoin violators. The secretary of state
16 shall, in accordance with chapter 17A, adopt and enforce rules
17 to accomplish the purposes of the chapter.

18 The penalty for violation of the chapter is retained and
19 provides for a fine not exceeding \$100 or imprisonment in
20 the county jail not exceeding 30 days. The bill becomes
21 effective on January first following its enactment.

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