

# Senate Bill 110

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Attorney General to determine if charitable corporations with annual revenues of \$100,000 or more provide charitable program services that meet or exceed expenditure threshold level. Directs Attorney General to notify Department of Revenue of charitable corporations that fail to meet expenditure threshold level.

Directs Department of Revenue to list charitable corporations that Attorney General has identified as failing to meet expenditure threshold level in income and corporate excise tax return instructions under heading "Disqualified Charitable Corporations." Requires taxpayers to add back to federal taxable income contributions made to disqualified charitable corporations that were deducted for federal tax purposes.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to regulation of charitable corporations; creating new provisions; amending ORS 128.620;  
3 and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 128.620 is amended to read:

6 128.620. As used in ORS 128.610 to 128.750:

7 (1) "Charitable corporation" means any nonprofit corporation organized under the laws of this  
8 state for charitable or eleemosynary purposes and any similar foreign corporation doing business  
9 or holding property in this state for such purposes. The mere making of grants or donations to in-  
10 stitutions or beneficiaries within the State of Oregon, or the investigation of applicants for such  
11 grants or donations, shall not constitute doing business in this state. However, the solicitation of  
12 funds for charitable purposes in this state shall constitute doing business therein.

13 [(2) "Trustee" means:]

14 [(a) Any individual, group of individuals, corporation or other legal entity holding property in trust  
15 pursuant to any charitable trust;]

16 [(b) Any corporation which has accepted property to be used for a particular charitable corporate  
17 purpose as distinguished from the general purposes of the corporation; and]

18 [(c) A corporation formed for the administration of a charitable trust, pursuant to the directions  
19 of the settlor or at the instance of the trustee.]

20 **(2) "Charitable program services" means the provision of goods or services that promote**  
21 **or fulfill the charitable purposes for which the charitable corporation was formed, but does**  
22 **not include any fundraising, administrative or organizational activities undertaken by the**  
23 **charitable corporation.**

24 (3) "Charitable purpose" means any purpose to promote the well-being of the public at large, or  
25 for the benefit of an indefinite number of persons, including but not limited to educational, literary,

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 or scientific purposes, or for the prevention of cruelty to children or animals, or for the benefit of  
2 religion, rehabilitation services, public recreation, civic improvement, or services which lessen the  
3 burdens of government.

4 (4) "Religious organization" means any organized church or group organized for the purpose of  
5 divine worship, religious teaching, or other directly ancillary purposes.

6 (5) "Trustee" means:

7 (a) Any individual, group of individuals, corporation or other legal entity holding property  
8 in trust pursuant to any charitable trust;

9 (b) Any corporation that has accepted property to be used for a particular charitable  
10 corporate purpose as distinguished from the general purposes of the corporation; and

11 (c) A corporation formed for the administration of a charitable trust, pursuant to the  
12 directions of the settlor or at the instance of the trustee.

13 **SECTION 2.** Section 3 of this 2007 Act is added to and made a part of ORS 128.610 to  
14 128.750.

15 **SECTION 3.** (1) Based on reports filed under ORS 128.610 to 128.750 or other available  
16 information, the Attorney General may identify charitable corporations that have annual  
17 revenues of \$100,000 or more but that, averaged over a three-year period, spend less than 25  
18 percent of their annual revenues on charitable program services.

19 (2)(a) The Attorney General shall file a written report with the Department of Revenue  
20 that names each charitable corporation identified under subsection (1) of this section, in order  
21 to facilitate implementation of sections 5 and 7 of this 2007 Act.

22 (b) The Attorney General may not include on a written report under this subsection a  
23 charitable corporation that has been in existence for less than four years. The Attorney  
24 General may not include on a written report under this subsection a charitable corporation  
25 more than once every three years.

26 (3) A charitable corporation that has been identified under subsection (1) of this section  
27 may request a review by the Attorney General annually. If requested by the charitable corporation,  
28 the Attorney General shall examine the reports and other information available to  
29 determine if the charitable program services expenditure threshold in subsection (1) of this  
30 section has been satisfied. If the expenditure threshold has been satisfied, the Attorney  
31 General shall include in the report filed under this section an instruction to the Department  
32 of Revenue to remove the charitable corporation from the listing of disqualified charitable  
33 corporations maintained under sections 5 and 7 of this 2007 Act for succeeding tax years.

34 (4) Nothing in this section limits the authority of the Attorney General to investigate the  
35 activities of a charitable corporation with annual revenues of less than \$100,000.

36 (5) The Attorney General shall file written reports described in this section with the  
37 Department of Revenue on or before August 1 of each year.

38 **SECTION 4.** Section 5 of this 2007 Act is added to and made a part of ORS chapter 316.

39 **SECTION 5.** (1) The Department of Revenue shall include a listing of disqualified charitable  
40 corporations in the personal income tax return instructions for tax years that begin  
41 on or after receipt of the report described in section 3 of this 2007 Act that identifies charitable  
42 corporations that have failed to meet the charitable program services expenditure  
43 threshold described in section 3 of this 2007 Act. The return instructions shall list the charitable  
44 corporations identified in the report under the heading "Disqualified Charitable Corporations"  
45 or similar language. The return instructions shall also provide an explanation of

1 the modification to federal taxable income described in subsection (3) of this section.

2 (2) The department shall remove a charitable corporation from the list described in sub-  
3 section (1) of this section:

4 (a) Upon instruction from the Attorney General that the corporation satisfies the chari-  
5 table program services expenditure threshold described in section 3 of this 2007 Act or has  
6 ceased to exist; or

7 (b) If the corporation has been listed as a disqualified charitable corporation for three  
8 consecutive tax years and the department has not received a subsequent written report un-  
9 der subsection (1) of this section listing the corporation.

10 (3) In addition to any other modification to federal taxable income under this chapter,  
11 there shall be added to federal taxable income the amount of any charitable contribution  
12 that:

13 (a) Is allowed as a deduction under section 170 of the Internal Revenue Code for federal  
14 tax purposes for the tax year; and

15 (b) Is attributable to a contribution to a charitable corporation that, pursuant to sub-  
16 section (1) of this section, is listed in the instructions as a disqualified charitable corpo-  
17 ration.

18 SECTION 6. Section 7 of this 2007 Act is added to and made a part of ORS chapter 317.

19 SECTION 7. (1) The Department of Revenue shall include a listing of disqualified chari-  
20 table corporations in the corporate excise tax return instructions for tax years that begin  
21 on or after receipt of the report described in section 3 of this 2007 Act that identifies chari-  
22 table corporations that have failed to meet the charitable program services expenditure  
23 threshold described in section 3 of this 2007 Act. The return instructions shall list the char-  
24 itable corporations identified in the report under the heading "Disqualified Charitable Cor-  
25 porations" or similar language. The return instructions shall also provide an explanation of  
26 the modification to federal taxable income described in subsection (3) of this section.

27 (2) The department shall remove a charitable corporation from the list described in sub-  
28 section (1) of this section:

29 (a) Upon instruction from the Attorney General that the corporation satisfies the chari-  
30 table program services expenditure threshold described in section 3 of this 2007 Act or has  
31 ceased to exist; or

32 (b) If the corporation has been listed as a disqualified charitable corporation for three  
33 consecutive tax years and the department has not received a subsequent report under sub-  
34 section (1) of this section listing the corporation.

35 (3) In addition to any other modification to federal taxable income under this chapter,  
36 there shall be added to federal taxable income the amount of any charitable contribution  
37 that:

38 (a) Is allowed as a deduction under section 170 of the Internal Revenue Code for federal  
39 tax purposes for the tax year; and

40 (b) Is attributable to a contribution to a charitable corporation that, pursuant to sub-  
41 section (1) of this section, is listed in the instructions as a disqualified charitable corpo-  
42 ration.

43 SECTION 8. Section 9 of this 2007 Act is added to and made a part of ORS chapter 318.

44 SECTION 9. The Department of Revenue shall prepare corporate income tax return in-  
45 structions in conformance with section 7 of this 2007 Act.

1        **SECTION 10.** This 2007 Act takes effect on the 91st day after the date on which the  
2        regular session of the Seventy-fourth Legislative Assembly adjourns sine die.  
3        \_\_\_\_\_