



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: February 4, 2014

TO: Honorable Floyd Prozanski, Chair
Senate Judiciary Committee, Members

FROM: Aaron Knott, Legislative Director

SUBJECT: HB 4081

RECOMMENDED ACTION

This testimony is presented in support of HB 4081. We recommend that the Committee approve HB 4081 with a do pass recommendation.

BACKGROUND ON EXISTING CHARITABLE OVERSIGHT

- Currently, ORS 128.610 *et seq.* sets forth the Attorney General's oversight authority over charitable organizations. This law imposes on any charitable organization doing business in the state a requirement to file an initial registration and annual financial reports with the Department of Justice detailing the organization's charitable funds and assets.
- More than 18,000 charitable organizations are currently registered with the Attorney General. Since 1996, the number of registered charities has approximately doubled. As the number of charities increases, compliance issues become more frequent.
- Compliance issues include organizations who do not file reports as required, file reports containing false, misleading or incomplete information, or do not provide documentation substantiating the accuracy of reported information.
- Although the existing statute imposes reporting obligations on charities, it does not clearly set forth the potential consequences for noncompliance or describe the specific actions which constitute violations of the Act. Adding more specificity to the law will improve compliance, enable the Department to more effectively address situations like those described above, and assist the Department in properly enforcing the law.

HB 4081 CLARIFIES THE LAW AND IMPROVES THE DEPARTMENT'S ABILITY TO ADDRESS CHARITABLE ORGANIZATIONS' NONCOMPLIANCE WITH STATUTORY REQUIREMENTS

- HB 4081 makes a number of small or technical changes in the area of charitable oversight. The most significant modification made by HB 4081 is contained in Section 7, which adds provisions clarifying what constitutes a compliance violation, including new language as to willfully making a false or misleading statement in a report filed with the Department or willfully failing to provide documentation related to the use of charitable funds. Section 7 outlines a series of penalties of varying levels of severity ranging from a formal request for additional documentation to the denial, revocation or suspension of registration of the charitable organization. In addition, Section 7 increases potential civil penalties from \$1,000 to \$2,000.
- New language in Section 4 enhances the Department's ability to obtain redress through the Courts, including the ability to require the responsible fiduciary to provide an accounting of their finances. The Department is increasingly encountering instances where charitable fiduciaries do not provide the appropriate documentation related to the expenditure of charitable funds. In many cases, this is because the fiduciary failed to adequately maintain or retain financial records. By the time the Department has undertaken an investigation, these records are far more difficult and expensive to obtain. Section 4 enables the Department to petition the court for an accounting at the fiduciary's expense.

DOJ CONTACT

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