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Senate Judicial Proceedings Committee

OSOS Departmental - Favorable

Senate Bill 184 – Charitable Organizations – Late Fees and Registration – Suspension and Cancellation Requirements

Senate Bill 184 is an effort to clarify an interpretation of our responsibility to regulate charitable organizations. The need for this bill arose when the Office of Legislative Audits, in their view, found that our collections should go to the Central Collections Unit (CCU), however, this would create problems with our ability to bring charities into compliance with the law.

This bill is nearly identical to SB262 from last session, which passed out of this committee unanimously. The only change is that we corrected a drafting error that added words that confused the intent and purpose of the clarification. The CCU is an improper system to use for our functions, because the total amount due is not set in stone, and sending collections to CCU would take away our control to negotiate with the entity and bring it into compliance with the law. Moreover, it would be a waste of resources and an unreasonable burden to place on good faith charitable organizations trying to follow our law.

The OLA OSOS audit for the period of 2017-2021 had a finding 2c to “refer delinquent accounts to CCU for collection assistance, as required by State regulations,” that our agency disagreed with because the law has been previously inferred to not obligate us to refer the collection of late fees from charitable organizations to the CCU for practicable purposes. The OSOS refers to delinquent charities internally as those who do not appear to be in compliance with OSOS annual filing and registration requirements.

The OSOS has the authority to extend the time period for filing annual reports without limitation. (Section 6-407(c) provides the Secretary of State shall assess late fees 60 days after the end of the organization’s fiscal year OR after the period of extension that may be granted by the Secretary of State.) We should also be able to suspend the collection when we are working with the charity to bring them into compliance. Our office works with charities, we are not adversarial.

With high turnover within charities, added fees and interest penalties should be used with discretion and careful consideration to ensure charitable assets are used for their intended charitable purpose. Our office requires the latitude SB 184 provides to assist these charities. For these reasons, the OSOS respectfully requests a favorable report on Senate Bill 184.