

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 52 (Chairman, Judicial Proceedings Committee)
(Departmental – Secretary of State)

Judicial Proceedings

Commerce and Government Matters

Public Safety Solicitors

This departmental bill specifies that public safety solicitors must provide any nonproprietary information to the Secretary of State as may be required by regulation.

Fiscal Summary

State Effect: None. The bill clarifies current law.

Local Effect: None.

Small Business Effect: The Secretary of State has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: There are five requirements a prospective solicitor must meet before the Secretary of State may approve an application: (1) submission of a complete application; (2) payment of an application fee (\$100); (3) certification that no back taxes are due; (4) written consent to the jurisdiction and venue of the Anne Arundel County Circuit Court in actions brought under this title; and (5) provision of any other nonproprietary information the Secretary of State requires.

Background: Public solicitors raise money for public service organizations such as fire departments and ambulance services. They are in a position of public trust and are therefore subject to a State application process and regulation.

This bill attempts to remedy the constitutional issue raised by the 10th Circuit by placing an appropriate limitation on the Secretary's discretion.

Chapter 500 of 2000, the Maryland Solicitations Act, established a regulatory framework for public safety by solicitors. Prior to being signed into law by the Governor, the Office of the Attorney General, due to the decision in American Target Advertising v. Giani, 199 F.3d 1241 (10th Cir. 2000), questioned the constitutionality of the Act. In American Target, the 10th Circuit held that a similar provision in Utah's charitable solicitations act granted the regulator too much discretion over the registration process.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State, Department of Legislative Services

Fiscal Note History: First Reader – January 15, 2001
ef/jr

Analysis by: Brian D. Baugus

Direct Inquires to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510