

SB262_ApraMaryland_Fav.pdf

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Position: FAV

February 6, 2024

Testimony on Senate Bill 262
Charitable Organizations - Late Fees and Registration - Suspension and Cancellation Requirements
Senate Judicial Proceedings Committee

Position: Favorable

Apra Maryland is the professional development and networking resource for Maryland-area fundraising professionals who harness information and data to drive philanthropy. We support Senate Bill 262 which aims to promote a more inclusive and supportive environment for Maryland's charities.

Maryland's 34,000 charitable nonprofits drive economic development as some of the largest private employers in Maryland, employing 13% of the state's private sector workforce according to the latest Bureau of Labor Statistics research. We firmly believe that Senate Bill 262 successfully strikes a balance between regulatory oversight and supporting the critical work of nonprofit organizations, which are undeniably essential to the well-being of our communities.

By allowing the Secretary of State to suspend or waive late fees for charitable organizations under specific conditions, Senate Bill 262 eases the regulatory burden on smaller, often all-volunteer nonprofits, that disproportionately rely on individual donations. This flexibility acknowledges the unique challenges faced by these organizations and will help alleviate financial burdens, enabling them to dedicate more resources to their mission-driven work.

The bill also establishes clear guidelines for the cancellation and reinstatement of a charitable organization's registration. This framework provides a fair and transparent process, ensuring that organizations that fall behind in compliance have the opportunity to rectify their situation and continue their valuable work within our communities.

We urge you to give Senate Bill 262 **a favorable report.**

SB 262 - JPR -Supp - Charitable Organizations - La

Uploaded by: Henry Bogdan

Position: FAV

February 6, 2024

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Charitable Organizations - Late Fees and Registration –
Suspension and Cancellation Requirements
Senate Judicial Proceedings Committee

Position: Favorable

Maryland Nonprofits is a statewide association of almost 1800 nonprofit organizations and institutions. We urge you to support Senate Bill 262 authorizing the Secretary of State to issue regulations that allow them to exercise flexibility in enforcement actions for late or missing registrations or payments.

The majority of nonprofits in Maryland are led by part-time or volunteer staff, and their governing boards are almost, if not entirely composed of unpaid volunteer directors. The majority of cases that come to our attention (and many do) where a nonprofit has fallen behind in required state filings are the result of unintentional failures to be aware of or to understand all of these requirements.

In some cases the problem is one of continuity. These are situations, not uncommon in smaller organizations, are where one person has handled the group's 'paperwork' for a considerable time, but has left, died or become incapacitated, without transferring records at all or without assuring a replacement is aware of all of the requirements.

Also, the requirements themselves can be confusing for individuals without adequate background. They sometimes feel that filing the required federal annual 990 and their Maryland 'Annual Report' with SDAT is all that's required.

Some groups go dormant for months or years without activity and newer members seeking to re-activate it find that records are incomplete or missing, and that there are numerous unpaid fees and unfiled reports. The current practice of the Secretary of State's Office, to prioritize obtaining compliance rather than penalties, is more appropriate in the majority of these situations, than referral to the CCU where fines and penalties can balloon to a level that leads to abandonment of an otherwise worthwhile effort.

Senate Bill 262 does not preclude the Secretary's Office from the option of pursuing forced collection in cases where it is deemed appropriate.

We urge you to give Senate Bill 262 a FAVORABLE report.

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Uploaded by: Michael Lore

Position: FWA

STATE OF MARYLAND

EXECUTIVE DEPARTMENT

WES MOORE

GOVERNOR

ARUNA MILLER

LT. GOVERNOR



OFFICE OF THE SECRETARY OF STATE

STATE HOUSE

ANNAPOLIS, MARYLAND 21401

(410) 974-5521

TOLL FREE 888-874-0013

FAX (410) 974-5190

TDD: 800-735-2258

SUSAN C. LEE
SECRETARY OF STATE

February 6th, 2024

Senate Judicial Proceedings Committee

OSOS Departmental - Favorable with Amendments

Senate Bill 262 – Charitable Organizations – Late Fees and Registration – Suspension and Cancellation Requirements

Senate Bill 262 is an effort to clarify our existing statutory authority to settle late fee violations with charitable organizations who fail to file annual reports and disclosures in a timely manner. The bill follows the current practice of how we resolve late fee violations and is not intended to create or modify our existing responsibilities with regard to late annual reports. It would change one practice, allowing us to cancel registrations for long-term non-compliant charitable organizations.

There is a clarifying amendment we also propose, which is to simply remove the language referring to “the imposition or collection of” in two locations within the bill. This language could confuse the intended purpose of the bill, which is not to create new duties for the agency, but simply allow us to settle or waive certain requirements of charitable organizations to bring them into compliance with law.

The need for this bill arose when the Office of Legislative Audits found that our office should be referring charitable organizations that have accrued late fees due to the late filing of one or more annual reports to the Central Collections Unit (CCU) for collection of those late fees. This would create problems with our ability to bring charities into compliance with the law. Referring charities to CCU would hamper our ability to resolve non-compliance with the annual registration requirements of the law because it would require payment of the full amount of late fees to CCU. This would prevent us from reaching settlement that included a suspension of late fee payment to help settle non-compliance when the charitable organization is making a good faith effort to comply with the law.

Furthermore, we do not believe CCU is a proper place to refer organizations that have accumulated late fees due to non-compliance. It would be a waste of charitable resources and an unreasonable burden to place on good faith charitable organizations that were established to do good and are trying in good faith to regain compliance with the law. Many (not all) organizations that fall into longer term non-compliance do so because they are no longer in operation or no longer soliciting charitable contributions in Maryland. This bill would allow us to cancel the registration of organizations that fall into this category. This would make for a better understanding of the charity’s status with the public and provide a more just ending to their registration with our office. Referring charitable organizations to CCU that tried to do

something good but could not be sustained would be a deterrent to those trying to do good charitable works.

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, rather than as a delinquent debt for referral to CCU.

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.)

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.

For these reasons, the OSOS respectfully requests a favorable report on Senate Bill 262, with our suggested clarifying amendment to remove language referring to “the imposition or collection of” because it works against our intent to simply clarify our current duties and the practical implementation of charitable enforcement.