

SB 5991 - a bill to impose state monitoring of non-profit charities

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Introduction

SB 5991, called the DISCLOSE Act, would, for the first time, impose state monitoring of certain activities by non-profit charity organizations.¹ The bill seeks to expand state power over political speech and civic engagement by requiring certain non-profit groups to report to the government sensitive personal information about their donors. A state agency, the Public Disclosure Commission, would then post this personal information on the internet.

Background – imposing new regulations on independent non-profit groups

Some lawmakers in Olympia want to expand state power by making certain independent non-profit organizations report personal information about their donors to a state-run online database.

If deemed by the state to be engaged in expressing political views, non-profit organizations would be required to file regular reports with the state PDC that provide personal identifying information about their contributors.

The label of “incidental committee” and the reporting requirement would be imposed regardless of the non-profit organization’s primary purpose. If certain conditions are met, the requirement would be imposed on charities, community groups, parent school-based groups, environmental protection advocates or any other charity or organization that falls under the bill’s definitions for expressing political views and civic engagement.

The requirement would be imposed on non-profit organizations deemed to have

engaged in “incidental” political activity. The non-profit organization must report the ten largest contributions of at least \$10,000 from a single source in a calendar year. In addition, all contributions of \$100,000 or greater in a calendar year must be reported.

The new reporting requirement would apply only to private gifts made to private non-profits; no reporting on the use of public tax money would be involved.

The reports to the state must include specific, personal identifying information about each donor. This personal information would be made public.

The report must also include “any other information required by the PDC” based on its interpretation of state campaign finance laws.²

The new regulations would be imposed on non-profit civic groups, like the ACLU, the YMCA, the PTA, parent clubs, environmental groups and local community groups that are labeled “incidental committees” under the legislation.

In the future, PDC staff could impose further requirements on non-profits organizations based on the expanded state authority created by the bill.

Policy Analysis – monitoring civic engagement by private non-profits

Currently, independent non-profit organizations do not report personal information to the state about their donors in order to protect personal privacy. SB 5991 would end these protections. In the past, supporters of certain causes, such as

1 DISCLOSE stands for “Democracy Is Strengthened by Casting Light On Spending in Elections.”

2 Quotation from Senate Bill Report on SB 5991, January 8, 2018, Washington State Legislature.

advancing civil rights, have been subject to threats, harassment and personal attacks.

The bill would serve to undermine the rights of all citizens because the state, for the first time, would start monitoring private civic activity that does not involve tax money in any way, and does not involve donations to candidates or to political campaigns.

Disclosure and transparency is for government, so that public officials can be held accountable for the use of public funds. The requirements imposed under SB 5991 would pry into the private lives of citizens. Fear of being “outed” on a state-run website would have a chilling effect on charitable giving and on the civic life of communities across Washington.

Monitoring so-called “dark” money

The backers of SB 5991 say it is about transparency, but actually it would mean anyone could personally target the supporters of non-profit groups that elected officials or political activists don’t like.

SB 5991’s requirement for reporting personal information to the state is similar in concept to a bill considered in 2015 by former Senator Pam Roach (R-Auburn). She said during a committee hearing that her intent was to punish a group that she felt had worked against her re-election.³

Because charitable giving is often private does not mean it’s “dark.” This is a derogatory term that is used by supporters of SB 5991 to imply that their opponents are under suspicion. Attacks like this are exactly why many people do not want the state to post their personal information and charitable giving on the internet.

For that reason, SB 5991 would have a chilling effect on fundraising and voluntary support for targeted non-profit charities.

As noted, public transparency is for public agencies. Agency budgets and tax spending should be posted online in a format that is easily accessible to the general public.

In contrast, private donations support voluntary giving and civic engagement – based on the principle that all citizens should have the right to support causes they believe in without fear of harassment.

Conclusion

The ability to support causes without fear or intimidation is the core principle of living in a free society. Backers of SB 5991 say the bill would promote democracy. It would actually do the opposite, because private charitable giving would be influenced by fear of public exposure, thus reducing civic engagement and public discourse based on trust.

Washington Policy Center works every day to make sure the public debate in our state is not solely dominated by special interests. We want to be sure a wide range of voices are heard, and that each of us is free to support the organizations and causes in which we believe.

One way to think of the donor privacy policy is that it is a message to state government to “Keep your hands off our charities.” Expressed another way, people should be able to give, or not give, to charitable causes based on the merit of the cause itself, and not be influenced by the fear that their personal information will be posted online by the state.

Voluntary civic engagement is essential for the health of our democracy. Everyone should be free to support the private non-profit causes of one’s choice without fear of harassment or intimidation.

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³ “Pam Roach offers lessons in winning and government: ‘I won,’” (SB 5375), by Joseph O’Sullivan, *The Seattle Times*, February 5, 2015.