

Texas Association of Nonprofit Organizations (TANO)

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SUMMARY OF ISSUES AFFECTING NONPROFIT ORGANIZATIONS **81st Texas Legislature, 2009 Regular Session**

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Analysis of proposed legislation:

With every session of the Texas Legislature, numerous bills are presented that directly or indirectly affect the interests of nonprofit organizations. The following summary lists bills of interest and concern to leaders in the nonprofit sector in Texas during the 2009 regular session and takes into account the following factors:

Whether a proposed bill strengthens nonprofit organization viability under Texas law or unduly burdens or threatens their status; whether the legal liability of nonprofit board members, officers, staff or volunteers is increased; whether current “charitable immunity” and “good faith” legal protections remain in place; whether laws governing nonprofits are necessary, understandable and based on reasonable public policy concerns; whether nonprofit advocacy is protected; whether ongoing nonprofit organization operations and finances are complicated by new governmental regulations; and whether nonprofit organization disclosure and accountability requirements remain reasonable and balanced.

Bills in the 2009 legislature affect nonprofits in the following areas:*

Amendments to the Texas Non-Profit Corporation Law, Chap. 22, Bus. Org. Code:

SB 1196 – HB 1955: Requires certain nonprofit organizations in Harris County to comply with the state open records laws, have a board that reflects the diversity of the communities they serve, and make efforts to award its contracts in accordance with the historically-underutilized business (HUB) laws. See also SB 931, below

Amendments to charitable immunity statutes in Chapter 84, Civil Practices and Remedies Code:

SB 1211: An audiologist or speech pathologist volunteering services would be protected from lawsuits, along with other types of volunteers now listed in Sec. 84.003(5) of the Civil Practices and Remedies Code. **HB 1995** is similar but does not amend Chapter 84. Bills of this type add to a long list those professionals and volunteers who receive immunity from suit for their volunteer work.

Exemptions from state taxes now extended to nonprofit entities:

HB 1402: A state select commission and a joint legislative tax review committee would each make periodic reviews of all state tax laws, including exemptions from taxes, and recommend changes to the

legislature; the nonprofit sector would have to be prepared to defend all current exemptions from various state taxes

SB 475: Property tax exemptions for a Sec. 501(c)(2) nonprofit (that holds property for the benefit of another qualified charitable corporation) are clarified

HB 831 - SB 564: Property used by nonprofit community business development organizations would be exempt from ad valorem taxation.

HB 589: A charitable organization owning and operating a public radio station has its property and equipment exempt from property tax

HB 507: Sales at charitable fundraising events at a state school are exempt from state sales and use tax

There are numerous other bills pending that address various specific exceptions to property taxes, based on local situations or circumstances faced by nonprofit entities.

Nonprofit board, officer, employee, volunteer and fundraising issues:

HB 1162, SB 776: Public collection boxes placed to accept donated goods would have to be clearly marked as to the nonprofit organization, if any, benefiting from the proceeds of the sales of collected items, or state that the goods will be sold for profit; door-to-door or mail solicitation of donated goods would require similar notices to the public

HB 226: Requiring or compelling an employee to make a charitable contribution would constitute an illegal labor practice by the employer; written authorization required to withhold wages or otherwise require the contribution

SB 918 – HB 2416: Clarifies that the Attorney General may be awarded its attorney's fees and court costs in a suit brought alleging a breach of a fiduciary duty by a charitable entity (see also **SB 917**)

HB 2319: Changes the requirements affecting nonprofit entities that conduct occasional fundraising, including sales of items, and the availability of the sales tax exemption for such fundraising sales

Open meetings / open records issues:

See **SB 1196 – HB 1955**, above

Public advocacy / Ethics Commission (lobbying) issues:

HB 723 – SB1215: Former legislators would be forbidden from lobbying for two years, except if lobbying for nonprofit organizations, disabilities, and low-income advocacy groups, without being compensated See also **HB2430** and **HB 2089**

HB 2410: Increases the exceptions to the lobby regulation and reporting laws by defining numerous circumstances involving contacts with state officials that would not constitute lobbying

Nonprofit social service organization issues:

HB 492: Would require a group of state agencies to designate a liaison official to improve partnerships with community and faith-based nonprofit organizations and strengthen state government initiatives with local nonprofits; would set up a task force under the Health and Human Services commissioner to advise the state on possible funding of nonprofit undertakings and capacity-building; would create a state fund account to receive legislative appropriations; and create a statewide database of local volunteer opportunities.

SB 159: Permits cities and counties to increase the minimum wage beyond the state and federal minimum wage. *There are numerous other bills to permit the increase of the minimum wage.*

HB 931: An applicant for a grant from a state agency would have to submit a minority impact statement on an approved form about the effect of the grant on minority and disabled individuals. *See also SB 1196, above.*

Other bills:

HB 671: Would add nonprofits as a protected class under the Penal Code by permitting an enhancement (increase) in punishment ranges for a person convicted for theft from a Sec. 501(c) organization

HB 547: A person sued because of a complaint or report given to a government agency is entitled to have the proceedings abated until the outcome of the complaint is resolved by the government agency

HB 1338: Persons involved in filing a good-faith complaint with a government agency would be protected from groundless or harassing lawsuits by a party adversely affected by the complaint; a court could grant an expedited hearing on the case and dismiss it if the complaint had been brought in good faith

*Above list does not include bills introduced relating to the following:

Nonprofit hospitals, health care or nursing institutions and plans; credit unions; electric or rural cooperatives; private and charter schools and colleges; cemetery corporations; insurance plans/HMOs; quasi-public nonprofit entities.

**Many bills have an identical “companion” bill in the other house, bearing a different bill number.

Access bills, background information, and current status at Texas Legislature Online,

www.capitol.state.tx.us