

## **BILL ANALYSIS**

H.B. 1162  
By: Orr  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

For-profit entities often contract with charitable organizations to solicit donations through unattended donations bins and through telephone, door-to-door, and direct mail solicitations. Typically, only 10 to 20 percent of donation revenue goes to the charitable organization. Current law does not provide for any mandatory disclosures that inform the donor of where the donation will go and what percentage of the proceeds will be given to the charitable organization.

H.B. 1162 requires these for-profit solicitors to post or state certain disclosures and disclaimers and establishes a civil penalty for violating those requirements.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1162 amends the Business & Commerce Code to prohibit a for-profit entity or individual from using a public donations receptacle to collect donated clothing or household goods for subsequent sale unless the entity or individual attaches a notice to the receptacle that is permanently and prominently displayed on the front and at least one side of the receptacle, meets certain print type and size requirements, contains the business address and other identifying information of the for-profit entity or individual, and contains the appropriate disclosure as specified in the provisions. The bill prohibits a for-profit entity or individual who makes, or directs another person to make, a telephone or door-to-door solicitation requesting donations of clothing or household goods from subsequently selling the donated items unless the solicitor provides the appropriate disclaimer to each person solicited before accepting a donation. The bill prohibits a for-profit entity or individual who mails, or directs another person to mail, a solicitation requesting donations of clothing or household goods from subsequently selling the donated items unless the solicitor includes the appropriate disclosure, prominently displayed in boldfaced type or capital letters, with the mailed solicitation. The bill provides the required language for a disclosure on a public donations receptacle, a solicitor's disclaimer, and on a mailed solicitation request and specifies the required disclosure language based on a certain amount or percentage of the proceeds given to the charitable organization, if any.

H.B. 1162 establishes that its provisions do not limit the authority of a local government to adopt an ordinance or regulation relating to the use of public donations receptacles as a collection point for donated clothing or household goods if the ordinance or regulation is compatible with and equal to or more stringent than a requirement prescribed by these provisions.

H.B. 1162 creates a civil penalty in an amount not to exceed \$500 for each violation of the disclosure requirements where each sale of a donated item is considered a separate violation, but prohibits the total amount of penalties imposed for donated items sold during a single transaction from exceeding \$2,000. The bill requires a court to consider the amount necessary to deter

future violations when determining the amount of the civil penalty imposed. The bill authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring an action to recover the civil penalty.

H.B. 1162 defines "charitable organization," "for-profit entity," "household goods," and "public donations receptacle," and "prosecuting attorney."

**EFFECTIVE DATE**

September 1, 2009.