

AB 60 Special Report III

AB 60 requires Nevada charitable organizations and nonprofits to file **financial reports** with their annual list filing of officers and requires **disclosure** of certain information by persons conducting solicitations for or on behalf of charitable organizations or nonprofit corporations.

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Searchable .pdf
Transcript of July 10 ,
2013, Webinar with
Nevada Secretary of
State's Nicole Lamboley
and ANN's Phil Johncock

- Resources
- Why AB 60?
- Summary of AB 60
- Working Draft of Regulations
- Questions & Answers





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Overview

This transcript is of the webinar entitled “AB 60 – Now That It Is Law & Effective January 1, 2014, Now What?” and held on July 10, 2013. The webinar was hosted by the Alliance for Nevada Nonprofits and part of the ANN Webinar Series sponsored by the First Nonprofit Insurance Company. This is a presentation by Nicole Lamboley, Chief Deputy Director, Nevada Secretary of State. The facilitator and moderator of questions is Phil Johncock, Executive Director, Alliance for Nevada Nonprofits.

Welcome

Phil Johncock: Welcome everybody to our webinar on AB 60. My name is Phil Johncock. I'm the Executive Director of the Alliance for Nevada Nonprofits (ANN). On behalf of the ANN Board of Directors and our sponsor of the webinar series, First Nonprofit Insurance Company, I'm delighted to have you on our webinar today. Joining us is Nicole Lamboley, Chief Deputy for the Nevada Secretary of State's office.

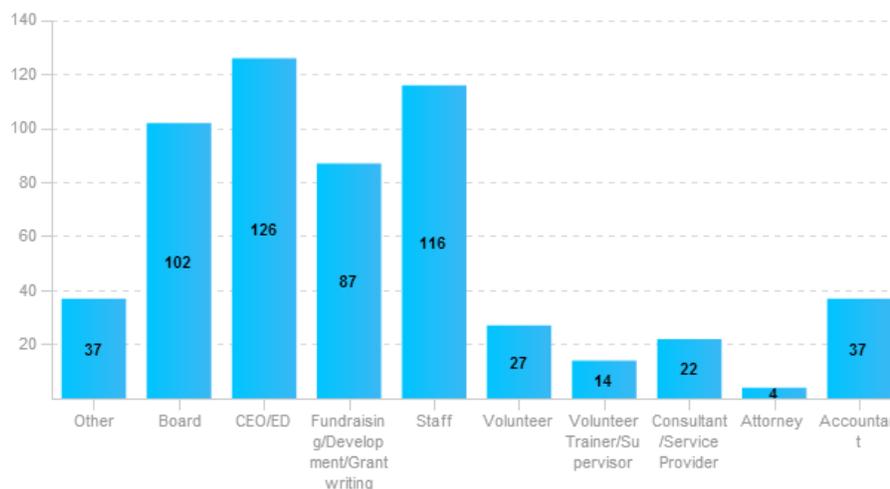
Nicole, are you there?

Nicole Lamboley: I am. Good morning, everyone.

Phil: Good morning to you. Welcome!

We're excited that you're on the webinar today. To let us know who is on the webinar, we have 480 people registered for the webinar. When listeners signed up, we asked you, “What's your primary role with your nonprofit?” We can see here that it's a good variety of folks. It's great to see a lot of board members, CEO's, executive directors, fundraising people, staff, volunteers and even a few attorneys, accountants:

What's your primary role with your nonprofit?





So, I want to welcome you all to the webinar. What we're going to go over first are the resources. You're probably going to ask you know, "Where can you get a copy of this PowerPoint presentation?"

[Click here](#) for the PowerPoint slides.

We're going to talk about why AB 60 was created in the first place. We're going to have a summary of AB 60 by section, if you haven't gone over it. We'll give you an example of a working draft of regulations. Nicole is going to explain to us that it's just a working draft. So, it's important that you realize that there is a process we will have to go through to work through the regulations, so it's just a working draft. Nicole has been generous to create this and make that available to us.

We also will do an overview of the implementation task and timeline and we'll give you a chance to ask your questions.

As far as resources go, we have created a website at AllianceforNevadaNonprofits.com/AB60. There, you'll find upcoming events, the actual final text of AB 60, and AB 60 resources on one-page working draft.

Nicole will explain the implementation process for regulation creation in just a moment. Nicole has graciously asked for feedback from the nonprofit sector.

There will be resources there on that webpage. For example, you could get the AB 60 final text as it was enrolled. There is a section on upcoming events. I'd like to announce a couple of things that you could watch out for that's related to AB 60.

- We've got webinars coming up like *QuickBooks 101 for Small Nonprofits* on August 14th.
- We've got some [regional conferences](#) coming up in the fall/winter.
- We're doing special solicitation training for staff and volunteers. A lot of you have between one and fifty volunteers. Quite a few have more than a hundred volunteers. The average number of volunteers for ANN members is 400. One of the things we've discovered in talking to nonprofits with volunteers is the need to help you with training everyone who will be soliciting donations. ANN plans to help you by offering solicitation training for your board, staff and volunteers.

Now, we'll continue with what resources we have on the AB 60 webpage:

- We've got a monthly newsletter that ANN always sends out. So, if you know people that want to be updated on AB 60 as well as issues related to nonprofits, tell them to sign up there: AllianceforNevadaNonprofits.com/AB60.
- We have a LinkedIn group, which is a great place for discussions by professionals around different topics.
- We also have a LinkedIn company page that you can get some updates and we'll also put information that's available on outreach.



Why AB 60?

Phil: So, that being said, I'd like to ask Nicole to give us an introduction to AB 60, for those of you, who may not be familiar with the bill. So, Nicole, why AB 60?

Nicole: Thank you, Phil.

Again, my name is Nicole Lamboley. I know that my colleague Scott Anderson, who's a deputy for commercial recording, is also listening in today. It will be his division that will be handling the filings for this new requirement.

AB 60 was a bill that was collaborative effort in partnership with the Nevada Attorney General's Office. One of the reasons is that in Nevada and all across this country, Americans are known for their generosity and give to charitable organizations and nonprofit to support efforts or causes in which they believe.

The challenge is nonprofit entities are actually creations of the state. Charitable organizations, or tax-exempt organizations, are designated by the IRS.

There is confusion often times among perspective donors or contributors regarding the difference.

In Nevada, you can file your Articles of Incorporation as a nonprofit corporation under NRS Chapter 82. That does not guarantee to anyone that you have a certain IRS status like a 501(c)(3). Often times, there are people who solicit funds from Nevadans. Then, donors find out that they contributed to a Nevada Nonprofit but that their contribution is not tax-deductible or doesn't qualify as a tax-deductible contribution because the nonprofit entity does not have its 501(c)(3) status.

We determined that we needed to add some distinction to provide the public more information about nonprofits that are created in the State of Nevada and whether or not they intend to solicit charitable or tax-deductible contribution.

This law, by in no means, restricts any nonprofits from raising fund. It just states that if you are a Nevada nonprofit or a Nevada foreign-qualified nonprofit that if you intend to solicit charitable or tax-deductible contributions, you need to file a supplemental solicitation statement with our office as either part of your Articles of Incorporation or your Annual List of Officers. We'll get more in to the requirements when we get down to the forms.

The other piece, and this was the piece that the Attorney General's Office felt very strongly about, was disclosure statement when soliciting fund. That disclosure statement applies to any nonprofit corporation filed under Chapter 82, whether or not the contribution may be tax-deductible or not. In this sense, any entity that solicits a contribution must state whether or not

“The challenge is **nonprofit entities are actually creations of the state.** Charitable or tax-exempt organizations are designated by the IRS. There is **confusion** often times among perspective donors or contributors regarding the difference.”

~Nicole



the contribution may be eligible for a tax deduction or that it is not eligible because it is not a 501(c)(3) entity. The purpose there was to provide more public disclosure on our website under the [Business Entity Search](#), where we list all registered nonprofit corporations that are filed in the State of Nevada.

Additionally, the change in law does require any nonprofit that intends to solicit to maintain active status.

I can tell you that I know of several nonprofits that are currently soliciting, who have not filed their Annual List of Officers for several years putting them in revocation status. They're actively operating in the State of Nevada; however, they are not actively registered with our office. They have failed to file.

This law further gives the Secretary of State office the ability to require nonprofit corporations that are soliciting to maintain their active status. If they are not in active status and are soliciting, we can ask them to come into compliance. There is a due process role for the corporation to return to active status. If they refuse to, we do have some legal means by which we can order them to cease and desist from activity in the state.

That's all laid out in the bill. Overall, the reason for AB 60 is many states have much more stringent reporting requirements for charitable or nonprofit entities. Nevada was not one of them. We just felt that it was time for the state to provide more public disclosure and accurate information to prospective donors.

Phil: In Section 3 of AB 60, the new nonprofit corporations indicate their intention to solicit charitable or tax-deductible contributions. All nonprofits need to file certain information, like you said, either at the time of their incorporation or with their Annual List of Officers.

We will show you some of the proposed forms today. Keep in mind that these are draft of the forms that may not, and probably won't be, the final versions. Section 3 clearly defines terms like Form 990, solicit charitable contributions. It also says that all nonprofits must report financial information with their annual list:

- 501.c.3.'s who file an IRS 990N form or the ePostcard | \leq than \$50,000 a year - They will now have to provide a good faith estimate.

Regarding financial reporting ...

- 501.c.3.'s who file an IRS 990N form or the ePostcard | \leq than \$50,000 a year - They will now have to provide a good faith estimate.
- 501.c.3.'s who file an IRS 990-EZ form | \leq \$200,000 a year in revenue or \leq \$500,000 in assets – They can take fields from the IRS 990-EZ form to fill out the financial report.
- 501.c.3.'s who file an IRS 990 form | \geq \$200,000 in revenue - They can also take fields from the IRS 990-EZ form to fill out the financial report.



- 501.c.3.'s who file an IRS 990-EZ form | \leq \$200,000 a year in revenue or \leq \$500,000 in assets – They can take fields from the IRS 990-EZ form to fill out the financial report.
- 501.c.3.'s who file an IRS 990 form | \geq \$200,000 in revenue - They can also take fields from the IRS 990-EZ form to fill out the financial report.

Any comments you want to make about these particular items, Nicole?

Nicole: Not really at this point because what I'd like to do is when we go through the draft regulations, I can address these because they are complicated.

Phil: So here is the working draft and maybe you can mention what the working draft is. Here is a slide of a couple of sections from the working draft that refer to the Financial Report:

Example From AB 60 Working Draft

Financial Report defined.

- For the purposes of providing financial information pursuant to NRS Chapter 82..., the following information as reported to the Internal Revenue Service on the corporations **most recent Form 990 or 990EZ** must be provided on the form prescribed by the Secretary of State:
 - Total Revenue (*line 12 990; line 9 990EZ*)
 - Total Expenses (*line 18 990; line 17 990EZ*)
 - Revenue Less Expenses (*line 19 990; line n/a 990EZ*)
 - Total Assets (*line 20 990; line 25 990EZ*)
 - Total Liabilities (*line 21 990; line 26 990EZ*)
 - Net Assets or Fund Balances (*line 22 990; line 27 990EZ*)

Financial Report using good faith estimates defined.

- If a corporation is not required to file a Form 990 or 990EZ, but filed a 990N or was formed in the past year and does not have any financial information available, it shall select the box indicating it is providing a good faith estimate based on the records of the corporation.

Nicole: Obviously, as the state continues its discussions on how to implement this law, we have rule-making authority in the bill to define certain areas of how procedurally that will occur. So, for the purposes of the Financial Report, in the law it says,



A Financial Report must contain the financial information of the corporation for the most recent fiscal year. In the discretion of the Secretary of State, the Financial Report may be a copy of the Form 990 of the corporation.

What we've determined is that we don't really need to collect everybody's 990s. First of all, for some organizations that is a sizable document. You already filed that. That information is made available. Without a lot of experience, people will have a hard time trying to understand what that Form 990 or Form 990EZ or the estimate means.

So, what we have done in the working draft, that you have before you, is outline some areas which we are considering to define further or by administrative rule-making authority.

In this case, we have defined what that Financial Report means. What we have done, and again, this is for input from the nonprofit sector, is identify the pieces of information that the public would understand the most. We define that as total revenue, total expenses, revenue less expenses, assets, liabilities, net assets or fund balances. What you see (in the slide on page 6) are the lines from the various Forms 990 or 990EZ from which that was taken.

“Keep in mind, though, that we are not auditing this. These forms are filed under the law as you know, under penalty of perjury, by the person submitting them.”

~Nicole

Further, (in the slide on page 6), we define Good Faith Estimate. Obviously, some corporations as Phil mentioned, are not required to file the 990 or as EZ but file a 990-N. Or if the corporation was formed in the past year and has not yet filed, they can select a box on the form that says they are providing a good faith estimates based on the records that they have maintained.

Keep in mind, though, that we are not auditing this. These forms are filed under the law as you know, under penalty of perjury, by the person submitting them. So again, it's the best guess estimate. You know, if you brought in \$5,000 and you spent \$4,000, your revenue less expenses would be at \$1,000. We are using the rule-making authority to further define and give guidance to the nonprofit sector as to what these forms will contain and what information will be required.

Phil: We have a question from Charlene that's related to this. So, I'll ask it here.

What if there's a timing difference between a 990's completion and annual filing? Can we send in a previous year 990?

Nicole: It says the most recent tax year. So, if your tax year ended December 31 and your annual list is due in January but you don't file your 990 until March, you would use the previous year that you did file. If you file 2013's return in March of 2014, you would actually report on your January 2014 report, your December 2012 report.

I mean, there may be a lag for some entities because of where their annual list requirements are due. So, it's the most recent tax year that was filed.



Phil: Great. Thank you, Nicole.

Continuing, I just have one more slide (on page 8) that is a quick summary of AB 60 sections.

Section 4 authorizes the Secretary of State to post on the website information that these reports.

Section 5 explains the process for written notices to a violations or violators, imposes a civil penalty of not more than a thousand dollars. It explains the cease and desist orders.

Then sections 6.5 – 12 authorize the Secretary of State's office and Attorney General's offices. It gives permission for them to basically implement this and to monitor it, as well as the authority to basically handle all of these situations that might arise.

Maybe you could mention a little bit more about what the Secretary of State and Attorney General's Office can do as the result of this legislation.

A presentation slide titled "Quick Summary of AB 60 By Section". The slide has a blue header bar with the ANN logo on the left and the First Nonprofit Insurance Company logo on the right. The main content is a bulleted list of sections and their descriptions. At the bottom of the slide, there are small navigation icons (back, forward, search, etc.).

- Section 4 (page 4)
 - Authorizes Secretary of State to post on website
- Section 5 (pages 4-5)
 - Explains process for written notices to violations
 - Imposes a civil penalty of not more than \$1,000
 - Explains “cease and desist” orders
- Sections 6.5-12 (pages 5-9)
 - Authorizes Secretary of State’s office and Attorney General’s office to ..
- Section 13 (page 9)
 - AB 60 becomes effective January 1, 2014.

Nicole: Sure. Section 5 states that there is a process already outlined in the legislation that says, if you are required to file and fail to, we will send you a written notice indicating that an alleged violation has occurred, and here is how you need to remedy it.

If asked, and there's sufficient notice and the entity or the corporation fails to submit that information, we can take action including imposing a civil penalty up to \$1,000 or issue a cease and desist from soliciting charitable donations.

Obviously, any action taken is relevant for the purposes of judicial review pursuant to the civil proceedings and administrative rules in the existing NRS. But again, it is not our goal to come out and be the hammer because we find that most nonprofits are acting in good faith and are maintaining their filings.



However, in the instance where we have received complaints from consumers about a nonprofit who may be in default or revocation status or who may not be registered with our office pursuant to the law, we have been limited in our ability to take enforcement actions against that entity and require them to come into compliance with the law.

Unfortunately, sometimes a few bad apples cause problems for those who do conform and comply with the law. Previously, we didn't have any enforcement authority.

We do not have a compliance staff that will be able to necessarily just go out and audit to determine if nonprofits are complying. However, if we receive a complaint from a consumer or the Bureau of Consumer Protection and AG's office receive a complaint, this give us statutory tools to enforce the law set forth by the legislature.

Phil: Great. Thank you. I think everybody knows. But if you don't, AB 60 becomes effective January 1st 2014.

Here's another section, Nicole, from your working draft because some people have expressed interest. What kind of wording are we talking about related to solicitation and disclosure statements. So, I've got a couple of things on the slide here. Could you go over these?

The slide has a blue header bar. On the left is the ANN logo. In the center, the text reads "Wording of Disclosure (Working Draft)". On the right is the logo for First Nonprofit Insurance Company, which consists of a red circle with a white diagonal line and the text "First Nonprofit Insurance Company".

Wording of Disclosure (AB 60 Sec. 12)

The disclosure statement on written or electronic materials must include the full legal name of the charitable organization or nonprofit corporation as registered with the Secretary of State and whether the contribution may be eligible for a tax deduction or not. Provided below are some guidelines or sample language that can be used:

- *Corporation or Charitable Organization Name*
- *Your contribution may be tax-deductible under federal law.*
- *Your contribution may qualify as a federally recognized tax deduction.*

- *Corporation or Charitable Organization Name*
- *All contributions or donations to this organization are not tax deductible under state or federal law.*



Nicole: Sure. The law specifies what must be stated. It basically says that any nonprofit organization organized pursuant to Chapter 82 in the State of Nevada must provide the corporation or charitable organization's name and whether the contribution may be tax-deductible under federal law or not.

I know many of the organizations already have, particularly if you operate in a state other than Nevada, similar disclosure statements because obviously, depending on an individual tax status, they may or may not be eligible to take that tax deduction.

What we're just recommending here is some sample language that may be used, that fulfills the spirit or the intention of the law. Then, if it is a corporation whereby the contribution is not tax-deductible, that they must state that. So, the disclosure statement is applicable to any nonprofit corporation filed under Chapter 82 whether or not the contribution or the donation is tax-deductible.

Phil: So, on the slide on page 9, we have this first example. It would be the sample wording from an organization that has received a 501(c)(3) tax-exempt status with the IRS, correct?

Nicole: Right. I actually notice that the second one should say Corporation or Organization's name. It shouldn't say, "Charitable."

Phil: So, we will cross that off from this example and so the second example would be an organization that has either has not applied or does not plan to apply to the IRS for tax-exempt status..

Nicole: Right. So, for instance, I know of one entity that was created to support a local soccer team, a neighborhood soccer team. They wanted to have a legal nonprofit entity but they didn't intend to file for their 501(c)(3) status. But, they wanted to be legitimized as a Nevada Nonprofit. When they went to the neighborhood businesses and said, "Will you support Soccer Team Act?" they would say something like, "We are chartered. We have a board of directors so you know that we're not just out collecting money."

What we want to make sure is that they inform those business owners at the time that they're making the solicitation that "This is not a 501(c)(3) donation. We are not recognized as a tax-exempt organization under the IRS code. Therefore, this contribution or donation will not be tax-deductible." Keep in mind that a lot of people believe that a Nevada Nonprofit means you are a charitable organization.

Phil: Let's see. I have a question coming in from Dianne. She asks, "**Why use the word 'may'?**"

Nicole: Again, this is only ... and I need to reiterate, this is sample language. This is not required language. It says guidelines or sample language that can be used. The reason for "may" is that some individual taxpayers "may" exceed their ability to take a certain tax deduction because they have exceeded their allocation based on whatever their financial status is.



For example, if someone who gives \$50,000 a year but makes a \$100,000. All of that contribution may not be tax-deductible. You can't say for sure that it's tax-deductible because you don't know the individual taxpayer's filing status. All you know is that you're making a charitable contribution and pursuant to the guidelines of federal tax law. It "may" be tax-deductible under federal law.

This was a comment that were made to us by some very large nonprofit who said, "Well, we don't know if it's going to be tax-deductible, ultimately." Again, this is not the law. This is just sample language that we say would fulfill the intent of the legislation in disclosing to a prospective donor that the contribution may be tax-deductible.

Phil: Right. I love that there's lots of questions coming through. I want to remind you that on the webpage that ANN has created - AllianceforNevadaNonprofits.com/AB60, there is a survey that you can fill out to provide your feedback on the "working draft" and sample language. We will share this feedback with Nicole. This is a working draft, so keep the comments coming in.

AB 60 Regulations

Phil: Could talk us through some examples of AB 60 regulations.

Nicole: The legislation gives us the authority to adapt regulations to implement this law. Typically, when we write and work with the legislature to create new requirements related to commercial recording filing, most of those are specified in law. So, in the regulatory process, there isn't a whole lot that we need to do. If you look at the AB 60 implementation working draft, here are a couple of things that I would point out:

First, a number of nonprofit suggested that they would like to be able to provide their website on the public entity search, if you have one. We could provide a link to that organization's website. That does not exist in the current law. What we would propose to do through the regulatory process is that we could add on the form a space for a corporation to provide a website address to be publicly displayed on our official internet website of the Secretary of State. We also specify that the website address must be the official website of the corporation and shall be maintained by the corporation. Again, that would be an optional field in the form.

The second one is the law does require right now the officers and directors of the corporation must be listed on the Annual List of Officers. This new law also now requires that if you have

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~Nicole



executive personnel, you must list that person. In this instance, we are defining or interpreting what executive personnel means. What you see there is that executive personnel means one or more persons at the highest level of organizational management who is responsible for the day-to-day management of the corporation. Then, we list the duties of that person like policy-making, planning, implementation, fundraising, supervising paid and volunteer staff, budget management, reporting and accountability, and working with the board of directors.

In this instance, most executive personnel receive some form of compensation. However, in some instances, it is voluntary.

We're leaving the discretion to the board or to the organization to determine who they have that fulfills this role. That information is required. We don't interpret everybody's organizational chart to determine executive personnel. If you have an executive director and perhaps a resource development manager or fundraising manager, those two may qualify based on this decision. You would be required pursuant to the law to list them. That's the purpose there.

Regarding financial reports, we already went over this. We define financial report using a good faith estimate. We also, like all of our forms, are given the ability to prescribe the form and pursuant to an existing chapter that we have regarding forged or fraudulently-filed document, we have a signature requirement.

We define what a contribution or a donation is. We define what a solicitation means which is basically also already defined in the bill. We reiterate to provide a little more guidance. We also define what a person soliciting for or on behalf of the organization. We define solicitation disclosure.

Beyond that, some of these may not actually be in the regulations but may be in "guidelines" or "frequently asked questions." Things like disclosure attributes. For instance, you can't put in one font size in your disclosure statement on printed material that isn't readable by the average person receiving the solicitation. We go through ideas that we have taken from nonprofits in the state who provided some comments early on when we were discussing how this bill would work, should the legislature pass it.

We also look at sort of standard nationally because we recognize that many of the organizations in the State of Nevada also operate in other states. We don't want to create more burden that what you use in California isn't applicable in Nevada.

Our purpose is to make sure that the information is provided to the prospective donor or contributor about the organization and give you some guidelines as to how to accomplish that.

"Our purpose is to make sure that the information is provided to the prospective donor or contributor about the organization and give you some guidelines as to how to accomplish that."

~Nicole



That's not to say that after a couple of years of implementation, we might find that "Gee, we need to be a little more specific in this because we're getting complaints." "Well, I didn't see where the disclosure was."

We're starting off with something we think should be manageable or organizations of all sizes to help you comply but not create an overly burdensome requirement that changes significantly your existing structure.

AB 60 Regulation Process

As far as the regulatory process, I'll quickly go through this. There's about seven steps in the regulatory process that are set forth by the Administrative Rulemaking Process under NRS 233B.

"We're starting off with something we think should be manageable or organizations of all sizes to help you comply but not create an overly burdensome requirement that changes significantly your existing structure."

~Nicole

Impact Statement:

"What would be the impact of this regulation? Not the impact of the legislation. The legislation is law. It's the impact of any regulations.

For example, does the disclosure attributes mean you have to reprint all of your material because you're a national organization? You need to change because what you've stated in the past won't comply with the Nevada regulation."

~Nicole

First, we draft the reg. So, we provided you with a working draft of all of these. We'd like your feedback. The next step is we have to send our draft regulation to the Legislative Council Bureau for review who may return a revised draft to us.

We then have to conduct a small business impact on the regulation. How will that impact small businesses?

A small business is defined as *a business operated for profit that employs fewer than a 150 full-time or part-time employee*. The key is a small business is defined as a for-profit entity.

Obviously, nonprofits are not for-profit. However, we believe it's important that we do an impact statement on the regulations. We would solicit from this organization and people on the call who represent nonprofits.

What would be the impact of this regulation? Not the impact of the legislation. The legislation is law. It's the impact of any regulations.

For example, does the disclosure attributes mean you have to reprint all of your material because you're a national organization. You need to change because what you've stated in the past won't comply with the Nevada regulation.



Again, we're trying to make this as impact-neutral or expense-neutral as possible.

When we ask for input around regulations, please do not focus on what it takes to implement the changes to the law because that's not what this requires. We look at the regulation as a process to guide organizations or entities in how to comply with the law and what we mean when we say what is the financial report is and what it contains.

The next piece is we have to hold a workshop, which is a public meeting to informally discuss the regulations. You will all be invited to participate. Under the law, we have to provide 15 days notice. We will do that.

Then, there is the Notice of Intent to Act on a Regulation. We must provide 30 days notice here. We can't start that 30-day notice requirement until 30 days after we submit the draft to Legislative Council Bureau.

For instance, if we sent the draft over to Legislative Council Bureau on August 1st, on September 1st, we could then issue our Notice of Intent to Act on Reg on October 5th and then we could have the public hearing which is that Notice of Intent to Act. At that point, we take public comments. We consider the public comments. Then, the final step is the Final Adoption of the Regulations.

So, we have seven or eight steps to take to effectuate a regulation. What we hope to do is obviously have the regulatory process done in early October, giving everybody an opportunity to be prepared particularly for those who have an Annual List due in January or February 2014.

Those of you who may have just filed your Annual List or who file it towards the latter part of the calendar year, this doesn't impact you as much. But, in order to give guidance to those who are the first quarter filers with our office, we'd like to implement this quickly. To that extent, we're hoping to get the draft over to LCB in early August with the intent of probably holding the adoption hearing and all the hearings sometime in the early part of October so that by mid-October, we completed the process.

New Forms

Phil: We've got some examples of some of the forms. Would you like to walk us through these forms?

Nicole: What you see before you is a draft of a Nonprofit Articles of Incorporation. Many of you may have seen this form or maybe you haven't. You may be more familiar with your List of Officers. This is when an organization is establishing it.

“When we ask for input around regulations, please do not focus on what it takes to implement the changes to the law because that's not what this requires. We look at the regulation as a process to guide organizations or entities in how to comply with the law and what we mean when we say what is the financial report is and what it contains.”

~Nicole



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 Website: www.nvsos.gov

**Nonprofit
 Articles of Incorporation**
 (PURSUANT TO NRS CHAPTER 82)

Draft 4

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

1. Name of Corporation:	
2. Registered Agent for Service of Process: (check only one box. NOTE: a Commercial Registered Agent is defined as a Registered Agent representing 10 or more entities)	<input type="checkbox"/> Commercial Registered Agent <input type="checkbox"/> Noncommercial Registered Agent (name and address below) OR <input type="checkbox"/> Office or Position with Entity (name and address below) Name of Noncommercial Registered Agent OR Name of Title of Office or Other Position with Entity Street Address _____ City _____ Nevada _____ Zip Code _____ Mailing Address (if different from street address) City _____ Nevada _____ Zip Code _____
3. Names and Addresses of the Board of Directors/Trustees: (each Director/Trustee must be a natural person at least 18 years of age; attach additional page if more than four directors/trustees)	1) Name _____ Street Address _____ City _____ State _____ Zip Code _____ 2) Name _____ Street Address _____ City _____ State _____ Zip Code _____ 3) Name _____ Street Address _____ City _____ State _____ Zip Code _____
4. Intent to Solicit Charitable Contributions:	Does Corporation intend to solicit charitable/tax deductible contributions? <input type="checkbox"/> Yes* <input type="checkbox"/> No <small>*If yes, registration statement is required.</small>
5. Purpose: (required; continue on additional page if necessary)	The purpose of the corporation shall be:
6. Name, Address and Signature of Incorporator: (attach additional page if more than one incorporator)	I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State. Name _____ X Incorporator Signature Address _____ City _____ State _____ Zip Code _____
7. Certificate of Acceptance of Appointment of Registered Agent:	I hereby accept appointment as Registered Agent for the above named Entity. X Authorized Signature of Registered Agent or On Behalf of Registered Agent Entity _____ Date _____

This form must be accompanied by appropriate fees.

Nevada Secretary of State NRS 82 Articles Revised: 7-8-13

Reset

For the most part, you will see that there is nothing different on this form except for #4: Intent to Solicit Charitable Contribution. This is the existing form. The only new piece of information is



#4. If the organization or the corporation selects “Yes”, we would go to the next page, and we'll talk about the Registration Statement.

If it checks “No,” then there is no additional information that's required.



ROSS MILLER
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov
www.nvsilverflume.gov

**Charitable Solicitation
Registration Statement**
(PURSUANT TO NRS CHAPTER 82)
*Required for any corporation that intends to
solicit charitable/tax deductible contributions*

Draft 7

USE BLACK INK ONLY - DO NOT HIGHLIGHT	ABOVE SPACE IS FOR OFFICE USE ONLY
1. Names of Nonprofit Corporation: <small>(please complete items a and b; attach additional page(s) if necessary)</small>	a) Exact Name of Nonprofit Corporation as Registered with the Internal Revenue Service, if different from that registered with the Secretary of State: _____ b) Name or Names under which Nonprofit Corporation May or Intends to Solicit Charitable Contributions: _____
2. Web Address: <small>(optional ?)</small>	_____ <small>*May be listed on Public Entity Search</small>
3. Places of Business: <small>(please complete items a and b; attach additional page(s) if necessary)</small>	a) Address and Telephone Number of the Principal Place of Business of the Nonprofit Corporation: Address: _____ City: _____ State: _____ Zip Code: _____ Telephone Number: _____ b) Address and Telephone Number of Any Office in this State or if none, Person who has Custody of its Financial Records: Address: _____ City: _____ State: _____ Zip Code: _____ Telephone Number: _____
4. Exempt Status and Federal Tax ID:	Federal Tax Exempt Status: _____ EIN - Federal Tax ID: _____
5. Names and Addresses of Executive Personnel: <small>(attach additional page(s) if necessary)</small>	Name: _____ Title: _____ Address: _____ City: _____ State: _____ Zip Code: _____
6. Fiscal Year:	The Last Month of the Fiscal Year of the Nonprofit Corporation is: _____
7. Financial Information from IRS Form 990, 990EZ or if no Form 990, a good faith estimate for most recent fiscal year:	<input type="checkbox"/> Check here if you file Form 990H or have not filed a form 990 or 990EZ. If checked, please provide a good faith estimate for its current fiscal year. All others please provide the information from for 990 or 990EZ for the most recent fiscal year. Total Revenue (line 12, Form 990; line 8, Form 990EZ) _____ Total Expenses (line 18, Form 990; line 17, Form 990EZ) _____ Revenue less Expenses (line 19, Form 990; n/a, Form 990EZ) _____ Total Assets (line 20, Form 990; line 25, Form 990EZ) _____ Total Liabilities (line 21, Form 990; line 26, Form 990EZ) _____ Net Assets or Fund Balances (line 22, Form 990; line 27, Form 990EZ) _____
8. Signature: <small>(must be signed by an officer of the nonprofit corporation)</small>	I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State. <input checked="" type="checkbox"/> _____ Officer Signature Title Date

Nevada Secretary of State NRS 82 Charitable Solicitation Registration Revised: 7-9-13

Reset



On page 16 is the new form. It is the Charitable Solicitation Registration Statement. If you intend to solicit charitable or tax-deductible contributions, you are required to complete this form as part of your Articles of Incorporation and then annually, on your List of Officers.

As you can see, most of the information comes straight out of the revised changes to the law.

For example, Names of Nonprofit Corporation. You know if you are ABC Nonprofit and that is your legal name that you have filed on your Articles of Incorporation, you leave that blank. If the name is different from that registered with the Secretary of State and if you intend to solicit or use other names for your nonprofit out in the community rather than ABC Nonprofit, like Help the Kids Nonprofit or whatever, you have a DBA. 1.b. is where you would put that information. Again that's only if you intend to solicit under other name.

We discussed in the regulations adding an optional field of providing your URL for the web address. See #2.

#3 is Your Place of Business. That is the location of your principal place of business in the State of Nevada. If you don't have a physical presence in the State of Nevada, you would provide a person who has custody of the financial records.

So, let's say you are a volunteer with Organization X. Basically, you help fundraise but there's no physical location for anyone to stop by to get information about the organization. You have a main office in Utah or California or New York. You would put that address.

Item #4 just asks for your Federal Tax Exempt Status, which may be 501(c)(3). It might be "501(c)(3) pending." Information can be provided there. Then, include your Federal Tax ID #.

We discussed the Name and Address of the Executive Personnel (#5). The address can be either a home address or the business address. That's what the law states.

Fiscal Year (#6) is where we answered the person who asked, "What if our Annual List date doesn't conform with or isn't the same month as our Fiscal Year?" Again, you just put what month your fiscal year ends. If you put it ends in December but your Annual List is due in February, that information is provided to the public.

Financial Information (#7). This is a sample of how it would look, how we would request the information to be provided. As I indicated, if you're providing a good faith estimate or because you only filed the 990-N ePostcard, we'd ask you to check the box so that people know that this is a "good faith estimate." If you file a 990 or 990-EZ, you would provide the information from the specific lines of your 990 of your most recently filed form. Signature is #8.

So again, this financial information is information that all organizations should have or have access to. If you fail to fill out your exempt status, you could be rejected because an incomplete form will be rejected just like any other form that we have according to our existing processes.

Phil: There's a few questions coming in about when somebody selects the "Yes" box that they plan to solicit charitable donations.



Nicole: Right. At the time they create their Articles of Incorporation, if you go to the next form please, this is something that most of you have probably seen is your (Nonprofit) Annual List of Officers and Directors.

Draft 3

(NONPROFIT) ANNUAL LIST OF OFFICERS, DIRECTORS AND REGISTERED AGENT OF FILE NUMBER _____

NAME OF CORPORATION _____

FOR THE FILING PERIOD OF _____ TO _____

USE BLACK INK ONLY - DO NOT HIGHLIGHT

Return one file stamped copy. (If filing not accompanied by order instructions, file stamped copy will be sent to registered agent.)

****YOU MAY NOW FILE YOUR ANNUAL LIST ONLINE AT www.nvsos.gov****

IMPORTANT: Read instructions before completing and returning this form.

- Print or type names and addresses, either residence or business, for all officers and directors. A President, Secretary, Treasurer, or equivalent of and all Directors must be named. There must be at least one director. An Officer or other authorized signer must sign the form. FORM WILL BE RETURNED IF UNSIGNED.
- If there are additional officers, attach a list of them to this form. ABOVE SPACE IS FOR OFFICE USE ONLY
- Return the completed form with the \$25.00 filing fee, if no capitalization. A \$50.00 penalty must be added for failure to file this form by the deadline. An annual list received more than 90 days before its due date shall be deemed an amended list for the previous year.
- Nonprofit entities formed under NRS Chapters 80 and 81 without 501(c) nonprofit designation are required to maintain a state business license. Those with 501(c) designation must indicate by checking box below. For those requiring a State Business License, the fee is \$200.00.
- If nonprofit corporation intends to solicit charitable contributions, the Charitable Solicitation Registration Statement must be completed and attached. Failure to include the statement may result in rejection.
- Make your check payable to the Secretary of State. Your canceled check will constitute a certificate to transact business.
- Ordering Copies:** If requested above, one file stamped copy will be returned at no additional charge. To receive a certified copy, enclose an additional \$30.00 per certification. A copy fee of \$2.00 per page is required for each additional copy generated when ordering 2 or more file stamped or certified copies. Appropriate instructions must accompany your order.
- Return the completed form to: Secretary of State, 202 North Carson Street, Carson City, Nevada 89701-4201, (775) 684-6708.
- Form must be in the possession of the Secretary of State on or before the last day of the month in which it is due. (Postmark date is not accepted as receipt date.) Forms received after due date will be returned for additional fees and penalties.

FILING FEE: \$25.00 (IF NO CAPITALIZATION) LATE PENALTY: \$50.00.

Does Corporation intend to solicit charitable/tax deductible contributions? Yes* No *If yes, registration statement is required.

For NRS Chapter 80 and 81 nonprofit corporations:

Pursuant to NRS Chapter 76, this entity is a 501(c) nonprofit entity and is exempt from the business license fee. Exemption code: 002.

NOTE: If claiming an exemption, a notarized Declaration of Eligibility form must be attached. Failure to attach the Declaration of Eligibility form will result in rejection, which could result in late fees.

NAME _____	TITLE(S) PRESIDENT (OR EQUIVALENT OF)
ADDRESS _____	CITY _____ STATE _____ ZIP CODE _____
NAME _____	TITLE(S) SECRETARY (OR EQUIVALENT OF)
ADDRESS _____	CITY _____ STATE _____ ZIP CODE _____
NAME _____	TITLE(S) TREASURER (OR EQUIVALENT OF)
ADDRESS _____	CITY _____ STATE _____ ZIP CODE _____
NAME _____	TITLE(S) DIRECTOR
ADDRESS _____	CITY _____ STATE _____ ZIP CODE _____

I declare, to the best of my knowledge under penalty of perjury, that the above mentioned entity has complied with the provisions of NRS Chapter 76 and acknowledge that pursuant to NRS 238.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

X _____ Title _____ Date _____

Signature of Officer

Nevada Secretary of State Annual List Nonprofit Revised: 7-8-13

Reset



You are required to file this Nonprofit Annual List of Officers & Directors on the anniversary date of your incorporation month.

Look at the middle of the form where it says, “Does Corporation intend to solicit charitable/tax deductible contributions?” You will be again required to fill that previous form that we just looked at will accompany your List of Officers.

Phil: So it would be a form filled out by current nonprofits with the 501(c)(3) status.

Nicole: Correct.

Phil: Great. Anything else on this form (page 18)? It looks pretty much the same as the existing one.

Nicole: Exactly.

Questions and Answers

Phil: We're going to address questions submitted by registrants before and during the webinar.

What and when are the filing requirements?

Nicole: The law goes into effect January 1st 2014, which means that any organization that has to file an Annual List of Officers will, at the time that they file their Annual List of Officers for calendar year 2014, be required to use the new form and provide the information if you intend to solicit charitable or tax-deductible contribution.

If you do not intend and you just intend to solicit contributions but you don't have 501(c)(3) status or have not applied for it, you just continue to file like you have always.

Your Annual List of Officers due date is the month in which your organization or your entity was created. If you don't know what that is, you can go to www.NVSOS.gov. Click on the Business Entity Search. Look up your organization by name. It tells you when your List of Officers is due.

For many of you, you may have a registered agent, who is not part of your organization, who you pay to file these papers. You need to communicate with your registered agent that you now have this filing requirement that must accompany your List of Officers. Either you have to provide that information to the registered agent so they can file or you have to complete it and submit it to your registered agent so they can complete the filing. We'll be working with the Registered Agent Association to make sure that they know that any entity they have, who has filed as a Chapter 82 entity, how it may impact their client, as well as changes in the law.

Phil: How can we support our partner organizations?

Nicole: Larger organization that in other states probably already have significant requirements for charitable registration. There are about 40 states that have a charities registration process in addition to the Secretary of State requirement. If you have best practices about how you communicate with donors or with volunteers about what information needs to be stated at the



time that you're making a solicitation, that would be helpful. Some people may have questions about their finances and how they report those.

ANN, as Phil said, has resources like QuickBooks training. Anybody who is out soliciting funds should have a financial management plan in place. They should be keeping accurate records. We're not trying to ask for complicated information. We're asking basic information. When I make contributions to organizations that I'm not fully aware of, I often ask these questions. A lot of sophisticated contributors do want to know. They verify. They validate.

I think ANN is a great resource. Some of the larger nonprofits have offered to assist of where they can.

Just remind people that there is a change in the law and if you don't comply, there could be significant penalties.

It's not three strikes then you're out. I mean, we're going to give people opportunity to come in to conformance with the law. That's why we're holding these meetings early on ... to inform you of the changes, allow you time to get prepared and seek your input as we go forward with implementation.

Phil: We've got new Nevada Nonprofit corporations. We understand that they will now have to fill out, as part of the incorporation process, whether they plan to intend to solicit donations.

"Just remind people that there is a change in the law and if you don't comply, there could be significant penalties."

~Nicole

Nevada Nonprofit corporations that have file for tax-exempt status but have not yet approved. How does this affect them?

Nicole: They put that they have pending applications.

Churches. Churches are generally not Nevada Chapter 82 entities. They may be under another chapter but with regard to the solicitation disclosure, they actually are exempt under existing law and that did not change. I believe that is in Section 12 of the bill. Churches should not be impacted unless there are Chapter 82 organization. Then, they would have to provide certain

"ANN, as Phil said, has resources like QuickBooks training. Anybody who is out soliciting funds should have a financial management plan in place. They should be keeping accurate records. We're not trying to ask for complicated information.

We're asking basic information. When I make contributions to organizations that I'm not fully aware of, I often ask these questions. A lot of sophisticated contributors do want to know. They verify. They validate."

~Nicole



information just like any other 501(c)(3). The exemption for the solicitation strictly applies to them and nonprofits with the status other than 501(c)(3), if they are filed under Chapter 82.

They would check that they don't intend to solicit charitable contribution and they have no additional filing requirement. They do have the disclosure requirement that states something to the effect of "We are a 501(c)(4)" or your contribution will not be tax-deductible under federal law.

Phil: People were asking about defining about some of the terms. I will mention that the working draft has definitions. The bill has definitions as well.

Next, we've covered some of the guidelines sample wording to be used and what are the various forms in which solicitation can take place. Those are also, if you read through the bill, are included there and as well as penalties. We are at the top of the hour.

We have a ton of questions that have come in, Nicole, but I don't know what your time. I do want to honor those people who can only stay until the top of the hour, who need to get off. I want to make a couple of quick announcements and then we'll come back to questions, if you have time, Nicole.

Nicole: I'll make myself available. I think this is helpful.

Phil: So, again the handouts for those people who did not get that at the beginning are available at AllianceforNevadaNonprofits.com/AB60. Now, I will mention for people ANN is offering a special reduced membership rate for "small Nevada nonprofits" that's good through the end of July. We hope you consider consider joining ANN.

We have some upcoming webinars that are all at nine o'clock in the morning:

- On August 14th, we have *QuickBooks 101 for Small Nonprofits* with CPA Brenda Stout.
- On August 28, I will be facilitating a webinar on *How to Use the New Charity Impact Tool*.
- On September 12, we have *Best Practices in Protecting Employee Rights* with Attorneys Jason Kuller and Josh Beck.

We will have some education sessions coming up:

- Regional conferences in the fall/winter,
- Solicitation Training for Staff and Volunteers.

Thank you to our webinar series sponsor, First Nonprofit Insurance Company. They plan to email registrants at the end of a free copy of *10 Things Every Board Member Needs to Know: Advancing Together The Roles of the Nonprofit Board in Successful Strategic Alliances*. So, watch for that.

Let's continue with the questions ...



Will you need to file each year your Intention of Solicitation of Donations?

Nicole: Yes, that is part of the Annual List.

Phil: Can we just send in a copy of the latest 990?

Nicole: At this point, no. We will ask for the information to be reported on the form prescribed by our office from the 990.

Phil: We are nonprofit school operating as an outreach ministry of a church. Must forms be completed for both organization separately?

Nicole: If each entity is a legally established entity, you would have to apply and submit the forms that apply to that entity. So, without really understanding how you're organizing your formation, I can't answer that question at this point.

Phil: If we currently submit a 990 Form, will it be a matter of transferring information to the Nevada Form?

Nicole: Yes. Simply transfer the specific line items from the 990 into the Secretary of State form. We are only asking for the most recent year.

Phil: The public can already get this information from nonprofits or at GuideStar.org, why does the state need it?

Nicole: We went through that discussion with the legislators. We believe that it's important for people to understand and tie the information to the public information that we already provide on our Nevada Business Entity Search about entities that are created. We want quick, handy information that people can access. If they want additional information, they can further go to GuideStar.

Unfortunately, GuideStar and some of the other providers of this information charge and/or require registration. Not all the information is free. Therefore, we feel like many other states that have set forth requirements for charitable organization registry that we could do something similar without creating an additional registry and additional fee in using our existing filing system to provide more transparency for the prospective donors here in Nevada.

Phil: If an organization completes the annual filing in July 2013, does the organization have to file again in January of 2014?

Nicole: No. They will file the new information at the time their next List of Officers is due. If they choose to provide an amended List of Officers with this information, they can do so. There is a fee for filing an amended List of Officers. But, they only have to file it when their next annual List of Officers is due.

Phil: This other question I think is related to that, too.

Our Annual List is due at the end of December, so do we file on January 1, 2014?



Nicole: No. You don't want to be late in filing. If your list is due in December 2013 and you are a late filer, you will pay a late penalty. Under the current law, this would not affect you until your December 2014 filing.

Phil: What website does the Secretary of State post the financial information and the information from AB 60?

Nicole: It will be www.NVSOS.gov under the Business Entity Search. Under existing law, all commercial recordings and filings are public information under the Business Entity Search. There will be additional information made available as a result of AB 60.

Phil: Was a general notice sent out to all nonprofits to advise them that they need to register?

Nicole: As part of our existing law, 90 day notices are given that the entity's Annual List is due. There will be a notice that states the changes. However, also working with ANN and other organizations that are interested in AB 60, we're trying to develop a broad communications plan so that people have numerous ways to access the information. So, if you are a March filer, you would get a notice that your Annual List is due in December of 2013. In that notice, it would outline the changes and the requirement.

Phil: So, every nonprofit should receive a notice 90 days prior to the month which their Annual List needs to be submitted?

Nicole: That is correct. I will note that many people do not keep their mailing addresses or their information updated. So every month, when we send this out, we get a lot of returns. It is not our duty to maintain your mailing address or your list or your address to where we are supposed to send the notices. Also, the law doesn't provide a waiver. If you didn't know because you didn't provide us the most up-to-date information, that will be terribly unfortunate.

I would recommend that any entity that has a registered agent, who is not within the organization, notify your registered agent of the changes and develop a plan for how you're going to fulfill the filing requirement.

Phil: How does a nonprofit update their e-mail?

Nicole: We don't collect e-mail addresses. You can sign up on our website. We do have on the Secretary of State website an e-notifier for certain types of things but e-mail is not part of the record. You can

"I will note that many people do not keep their mailing addresses or their information updated. So every month, when we send this out, we get a lot of returns. It is not our duty to maintain your mailing address or your list or your address to where we are supposed to send the notices. Also, the law doesn't provide a waiver. If you didn't know because you didn't provide us the most up-to-date information, that will be terribly unfortunate."

~Nicole



receive some electronic notifications. Unfortunately, I'd have to defer to commercial recording to tell you what that is at this point.

I will also note that what I showed you were paper forms.

Annual List of Officers may also be completed online through our online system, which runs through our business portal www.NVSilverflume.gov. You'll be able to submit all of this information electronically. You don't need to just do a paper filing. You will be able to do the List of Officers electronically through an online system, if you want.

We will be working in the coming months to have Articles of Incorporation for nonprofits available online, but right now we do not. Online filing of lists of officers and reports will be available online, as well.

Phil: As a reminder ... the forms we saw today are in draft form only. But ultimately, those will have hard copies as well as be able to be completed online.

Nicole: Correct.

Phil: Another question. **If a nonprofit has affiliates as well as a state entity, do the affiliates need to file separately?**

Nicole: It depends on how you're organized. If the affiliates are their own legal entity filed with our office, yes. If they are just branches, they don't necessarily need to be, although the law does allow them to be registered separately. So, it sort of depends on how the organization is organized.

So, if an affiliate is a legally separate entity, then "yes". If it is not a legally separate entity, it's just an entity under the umbrella of but has a different name and would be soliciting and it all goes in to kind of the same hat, you would just need to report what that name of that affiliate is, if it operates by a different name other than the legal corporation name.

Phil: **Does language asserting 501(c)(3) status satisfy the disclosure requirement or do we need additional language asserting tax deductability?**

Nicole: The law specifies what must be stated. Section 12 specifies what must be stated by a person who is soliciting or by any entity who is soliciting. So no, just saying, "We are 501(c)(3)" does not satisfy the solicitation requirement.

Does language asserting 501(c)(3) status satisfy the disclosure requirement or do we need additional language asserting tax deductability?

"The law specifies what must be stated. Section 12 specifies what must be stated by a person who is soliciting or by any entity who is soliciting. So no, just saying, "We are 501(c)(3)" does not satisfy the solicitation requirement."

~Nicole



Phil: Could you include a statement that the contributor should consult their accountant for confirmation of tax-deductible donations?

Nicole: There is no restriction on whether or not you can provide any information like that. In our FAQs, we would probably recommend that a statement like that be made, if you feel it appropriate. That would be a Best Practice.

Phil: Yes. What contributions are not tax-deductible?

Nicole: I don't make that determination. A tax-deductible contribution is anything that the IRS recognizes as being tax-deductible. I believe the IRS only recognizes contributions to 501(c)(3) organization as tax-deductible.

Phil: Does this require that organizations also use wording that says that they are registered with the State of Nevada?

Nicole: Yes it does. It requires the legal name of the organization as registered with the Secretary of State. So, if the legal name is ABC Nonprofit but you're soliciting as Nevadans Helping Nevadans, you would need to put ABC Corporation somewhere in the disclosure statement so that they would know how to look you up on the public entity search.

Phil: Will AB 60 pre-empt municipal charitable solicitation requirements? For example, the City of Las Vegas requires a charitable solicitation permit. Will AB 60 pre-empt that requirement?

Nicole: No. Under the law, local government has the ability to set forth by ordinance their own rules and regulations. So, it does not pre-empt them. It is additional information that the state requires. Local governments can further establish requirement or not.

Phil: What if all of the officers are volunteers and not paid staff members? Are they required to be listed with the Annual List of Officers?

Nicole: Yes. They currently already are, so nothing in that has changed. Under current law in Chapter 82, the requirements for the listing of officers and directors of the entity are included. So for instance, I am on a board. You know if I'm on a board as a volunteer. Since I hold an office within that organization, I am listed. The law requires the officers of the corporation and at least one director be listed. So, nothing in existing law has changed regarding that.

Phil: How does this apply or does it apply to organizations based outside of Nevada who are soliciting in Nevada?

Nicole: It does apply to entities who are soliciting to people in Nevada. So, if an entity makes a solicitation, let's say they're based in California. They call prospective donors in the State of Nevada. This would apply to them. They would have to be foreign-qualified. They may have to be foreign-qualified but they also will have a disclosure requirement as well.

Phil: Our organization does not solicit individual donations in Nevada but we only contact corporations and foundations for grants, does AB 60 still apply to us?



Nicole: Yes. If the contribution that you solicit from a corporation could be considered a tax-deductible contribution that that corporation could take, “yes”. You do have to comply with the law.

Phil: Can you clarify a bit more where and/or how disclosures have to be posted and made available? Does it have to be on the organization material? Does it have to be made to every donor? Are there guidelines on these?

Nicole: Yes, the working draft has a draft of some guidelines. We welcome feedback and comments on that particularly from those organizations that may already have requirements in other jurisdictions.

Phil: To clarify what's available to the public on the Entity Search, will it be the statement with the information from the 990 as you discussed, maybe if nonprofits had 990's uploaded on their websites, would that be helpful?

Nicole: The Public Entity Search will contain a link to the information: the financial information provided. Yes, we believe it would be a best practice for an individual nonprofit entity to provide its 990 form on its website. That's why we have proposed putting an optional collection of the entity's URL or website on the form so that we can make that available. We believe that if we can provide more information and direction to the public about where they can get additional information about the entity, that's beneficial.

Phil: Are organizations that are already established required to complete these forms?

Nicole: Yes! It is part of filing their Annual List of Officers.

Phil: Do we have to amend our Articles of Incorporation to discuss this Charitable Solicitation Registration Statement form?

Nicole: No.

Phil: Is there an impact or increase to the filing fee if the organization solicits charitable contributions?

Nicole: No, there is no fee increase to the existing fee remain.

Phil: Since 501(c)(3)'s have the same issue of delinquent filing sometimes, why is there not a place on the statement which 990 is being used?

Nicole: We can certainly provide that. We can discuss if that would be helpful. Again, the forms represent a draft. Comments like these are appreciated. We can definitely consider that.

Phil: How do you know someone has not filed the previous year?

Nicole: The system automatically tells us. Under the current law, if you fail to file your Annual List, you are put in to default status. After default status of another year of default status, you then go in to revocation and after five years, the system automatically puts you in to permanent revocation. At any time, an entity can return to status by paying all of the back fees, file, and make all the filings for the years that were missed.



Phil: You mentioned earlier distinction between the terms Contribution and Donation. Can you explain?

Nicole: Well, I think for the purposes of our contributor, someone may make a monetary contribution but they may donate a tangible asset. I think they are synonymous in some terms. I mean, if someone is donating something to an organization that has something of value. So, while they may be different, there also may have some similarities. We would welcome any comments to those on the working draft if somebody feels that there's better language or additional language that should be included.

Phil: Is there a deadline for comments on the working draft? When is the drop-dead date that we say, "No more comments please"?

Nicole: I think if we could have comments probably by August 2nd (Friday). That would be helpful so we could make any real substance of changes that we need to include in our draft that we send over to LCB. Obviously, once we receive the document back from Legislative Council, because they put a lot of things in to their own words, we will send that out. That will be the basis and the document for which the regulatory process will occur. We would seek public comment on much of that information. The more information and input we have going in to the drafting, the easier it will make the process.

Obviously, anything that is considered a guideline or an FAQ does not need any formal state public hearing or adoption. So, we have the ability to refine those as we go along.

Phil: If an organization does not solicit funds but does accept unsolicited donations, is the organization exempt from disclosure requirements?

Nicole: Yes. If you make no solicitation. So, for instance, you have someone just sends you a check, obviously you cannot disclose to them because you didn't solicit that. I believe in most instances, most organizations send some type of receipt or acknowledgment thanking the donor for that contribution or donation. What we could include in a guideline or FAQ would say something like "If you don't solicit but you receive a contribution and you send an acknowledgment, it's advisable (a best practice) to indicate in your response to that donor whether or not that the contribution may be tax-exempt or not. You're providing more information to the donor. There's nothing in the law that would require that; it's just advisable.

Phil: Would you please repeat the website where presentation slides can be found for downloading as well as filling out the survey for information on the working draft?

Yes. That's AllianceForNevadaNonprofits.com/AB60.

We are a church. We do not file 990 and have not filed anything to be a 501(c)(3) organization. Does this law apply to us?

Nicole: I would have to look at the specifics. I don't know under Federal Tax Law how you are organized, so we'd have to look at that individually.



Phil: With regard to partner organizations, Nevada PTA has a group exemption with a hundred plus subordinate organization. Will each subordinate have to file or will we be compliant if we report as a parent organization?

Nicole: Again, it depends on how the legal status of each of those entities. If they are each individually chartered legal entities, it may apply. If they are operating under an umbrella organization in the 501(c)(3) (i.e., National PTA), it would just be the National PTA that is required to provide the information.

Phil: Does this only apply to cash donations?

Nicole: No. It applies to any donation of monetary or of value. So, if someone can write off the value of a car pursuant to IRS rules, it would apply.

What is the impact to a 501(c)(4) organization that makes charitable contributions from a separate bank account?

Nicole: There is no impact to someone who makes a charitable contribution. The impact is to those organizations who solicit or receive charitable contribution.

Phil: Is there a process for obtaining an extension of time in which to file?

Nicole: No. The law as it is currently, you are required to file on the last day of the month of your anniversary date, when your Annual List of Officers is due. The only caveat is sometimes if this last day of the month falls on a weekend day, you are allowed to file by paper the next business day. But, there is no extension. We cannot grant waivers for missing the filing deadlines. You will pay the late fee. That's statutory.

Phil: This question is about GuideStar. It charges to obtain the 990 form, is that correct?

No, not necessarily. Every nonprofit can, if you apply and receive the bronze, silver and gold seals of GuideStar Exchange Program, you get GuideStar Premium (a \$1,500 value) for free, which allows you to get any 990 for free. GuideStar Exchange is a great tool for nonprofits to put in your basic information of your organization as well as report your finances. They've a new charting impact form.

Does this concern senior centers that are with the ADSD?

Nicole: Unfortunately, I know a lot of acronyms but I don't know what exactly their meaning.

So, I guess again, like all of these, it depends on how your organization is formed. If you are a Chapter 82 legal entity in the State of Nevada, it will impact you if your centers are solicit charitable organizations. If you are a governmental entity, it does not. But I don't know the specifics and again, with a lot of these who are asking direct questions that are kind of unique, the more information that you can provide to Phil and he can get it to us or if you want to contact us directly, we can look at the individual attributes and determine.

Phil: Can you explain what you meant by churches don't apply to these changes? What if we are a private school affiliated with the church.



Nicole: Again, it depends on how you are formed. The disclosure requirements exempt organizations that are established for a bonafide religious purpose. That is an existing law already and that's defined obviously by the IRS rules as well. So, basically, when a church does its weekly offering or request from participants or church members to contribute, they don't have to make the disclosure statement. I would have to look again. The answer to this question would depend on if the school is affiliated with the church but has its own legal entity, then requirements of Chapter 82 would apply. A lot of churches are not filed under 82. Some may be under Chapter 81. They also may be under Chapter 84. This only applies to those entities that are Chapter 82 entities.

Phil: In Nevada.

Nicole: In Nevada, yes.

Phil: **Our Fiscal Year ends June 30th, we always get an extension from the IRS to May 15th of the following year to file the 990. Therefore our 990 is not available until May 15th of the following year. This may impact our ability to file in a timely manner. What should we do?**

Nicole: Again, it says the most recent filing that you did will suffice. So, if the most recent year that you have, that you have filed is Fiscal Year 2011 and it's Fiscal Year 13 because you're still filing your Fiscal Year 2012, then you file your Fiscal Year 2011.

Phil: **What is the charitable form number for search purposes?**

Nicole: The charitable form number for search purposes? I'm assuming what's being asked is how you search for an entity. You can search by name. You can search by officer. You can search by officer directory. You can search by the Nevada Business ID number. You can search by a registered agent name.

The Nevada Business ID number is kind of like your unique number that is assigned to every entity registered with our office.

Phil: **What was the web address for online filing of officers?**

Nicole: It is www.NVSilverFlume.gov. It can also be accessed at www.NVSOS.gov under Online Services as well.

Phil: **If a membership organization 501(c)(4) receives charitable contributions from its members, which are kept separately and given to 501(c)(3) organizations, does the 501(c)(4) organization need to state that they solicit charitable contributions?**

Nicole: I don't know how that would work because I don't think you have the authority to accept charitable contributions if you're not a 501(c)(3). I think we'd have to look and understand again better because as a 501(c)(4), you aren't soliciting charitable contributions. Your members may be writing a check. If they're writing a check to the 501(c)(4), it's not tax-deductible. If you're saying, "Oh, we're collecting this for you know, the Humane Society, write your check to the Humane Society." They might have to make a disclosure. We'd have to look at those



individually and understand better what they're trying to do. That might be a good FAQ to work on with an organization like that.

Phil: Will a copy of the business tax exemption statement be submitted online or with other annual forms?

Nicole: The supplemental registration will be submitted either at the time of the Articles of Incorporation or at the time a List of Officers is filed. Basically, it would become a two-page form or registration that needs to be completed together. So, I'm not really sure.

Phil: Elaine says, "Thank you very much. This was extremely informative. Nicole was very thorough."

Nicole: Thank you.

Phil: Why does stating our 501(c)(3) status with the employer identification number included not meet the standard for solicitation disclosure?

Nicole: Because the law specifies what needs to be stated in the disclosure.

Phil: So, there's additional items that may be required.

If we only receive government grants but no foundation money, does this apply?

Nicole: No, because I don't think a government can deduct a grant. It depends on your organization. If you take both private money, corporate money, and government money, it might apply. But if you're only established for the purposes of receiving government grants, a government doesn't get to write off their contribution as tax-deductible. So again, it would be situational. We'd have to look at exactly what the organization is doing to understand better.

Phil: As charitable organizations come into compliance with AB 60 and may be non-compliant accidentally, the first year or so even accidentally, might there be potential consequences to donors either individuals or other 501(c) grant makers? What are the consequences?

Nicole: No, there's no consequence to the donor because if the organization is you know, has a 501(c)(3) status and they fail to just file with our office, that doesn't impact the donors tax-deductible contribution whatsoever. The IRS only handles whether or not you know that contribution is tax-deductible. It doesn't impact the donor. The donor or the grantee are not affected. However, the organization may be affected because a grantee may choose not to provide them funds because they are not in compliant with state law. So, this law only impacts the organization.

Phil: What about smaller organizations like booster clubs that do fundraising that are currently registered with the Secretary of State's office? Will they need to register and file in order to continue fundraising?



Nicole: Technically, if they consider themselves a nonprofit entity, they should be registered with the Secretary of State's office. If they are an organized entity, the existing law governing the creation of an entity in the state exists.

If they obviously don't have their 501(c)(3) tax status, they do not need to comply with the requirements of AB 60 as far as registration but they would need to comply with the disclosure.

If they're not a legal entity and they just want to fundraise, I guess they could but again, somebody could file a complaint and it could be determine that actually, they do need to actually be registered with the Secretary of State as a nonprofit entity. Again, it would have to be analyzed on a case by case basis and understanding what they're doing and what current law requires.

Phil: What happens if the organization does not comply?

Nicole: If the organization does not comply, there is a process by which they are served written notice that they are not in compliant with the law. They're given an opportunity to remedy that. If they continue to refuse, to come in compliance with the law, the Secretary of State has the ability to take some enforcement action either to require them to discontinue their operation as far as soliciting contributions. We can issue a cease and desist. We can take it forward, if we believe there is a case to the Attorney General, for further enforcement of Nevada's filing requirements in law. You are given an opportunity of remedy.

Phil: Thank you so much Nicole for your time and work on AB 60 and your support of our nonprofit sector. Any last words for the nonprofit sector as we finish up today?

Nicole: We obviously support having a healthy and strong nonprofit sector. We believe this will help particularly with bad apples. It will give us the ability for some enforcement. To the extent that we can be a resource to you as you go forward in complying with the law, please don't hesitate to contact us. We'll be happy to answer your questions. You know, this is a changing practice but again, we try to keep it as simple as possible but to improve transparency and not create a new burdensome filing requirement. There were some discussions early on about making it much more extensive than it is but we thought this was a good first step. We want to partner with all of you.

ANN has been a tremendous resource for our offices. Phil has been a convener and has provided great insight and feedback from the nonprofit sector about what can be and what we should consider. I urge you to continue to communicate information through ANN. We value your input.

Please, if you have time, take a look at the draft and provide us with comments. We look forward to working with all of you and helping you along with this change. Thank you, for your time!

Phil: Thank you, Nicole!

<http://alliancefornevadanonprofits.com/ab60>