

Veto No. 2000-1

HB 1150

December 20, 2000

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, House Bill 1150, Printer's No. 4224, entitled "An act amending the act of December 19, 1990 (P.L. 1200, No. 202), entitled 'An act providing for the registration and regulation of solicitations by charitable organizations, professional fundraisers and other solicitors; imposing additional powers on the Department of State and the Office of Attorney General; prescribing civil and criminal penalties; and making a repeal,' further providing for reports by charitable organizations and for exemptions from registration."

I am not opposed to increasing the review and audit thresholds that were part of the original bill. Nor am I opposed to amending the solicitations act to reduce some of the administrative and financial burdens imposed on volunteer organizations under the act. However, due to the equal protection concerns enunciated below, I cannot support the amended version of the bill eliminating the distinction between certain organizations that utilize professional, as opposed to volunteer, fundraisers.

In *Streich v. Pennsylvania Commission on Charitable Organizations*, 579 F. Supp. 172 (M.D. Pa. 1984), the district court examined the exemption provisions from the previous solicitation act, incorporated into the Commonwealth's current Solicitation Act in 1990. In examining Pennsylvania's exemptions from registration, the district court held that the exemptions granted by Pennsylvania did not violate equal protection even when using a heightened strict-scrutiny standard due to free-speech concerns. The district court upheld two distinct classes of exempt entities. The first class includes entities that are already regulated by other State laws and thus additional duplicate supervision was considered wasteful and counterproductive. The second class includes certain local organizations that do not hire professionals to solicit on their behalf. The court held that exempting these entities that use volunteers, as opposed to professionals, to solicit on their behalf was directly and substantially related to the purpose and enforcement of the Solicitation Act.

The elimination of the volunteer requirement in House Bill 1150 removes those provisions that the district court relied upon to declare the exemptions constitutional. This new class of entities would not be subject to regulation by other State agencies, nor would they be required to use volunteers. This substantial change from the current classes of exemptions in the Solicitation Act creates the likelihood that the Solicitation Act would be challenged and, ultimately, struck down on equal protection grounds.

Because of the constitutional equal protection problems raised by House Bill 1150, I am hereby returning House Bill 1150, Printer's Number 4224, without my signature, but with a commitment to work with the General Assembly to address the concerns which formed the basis of the proposed changes.

THOMAS J. RIDGE