

Ambitious New Nonprofit Legislation

05.03.22 | Linda J. Rosenthal, JD



In the House of Representatives last week, U.S. Representatives Betty McCollum (D-MN) and Fred Upton (R-MI) introduced The Nonprofit Sector Strength and Partnership Act, [H.R. 7587](#).

It's an ambitious bill, over a decade in the making. The goal is to give the nonprofit sector a long-overdue and greatly deserved "[seat at the table](#)" in federal policy making from early development to implementation. Described as "aspirational" and expansive, the legislative package comes with a \$50-million price tag.

At best, H.R. 7587 is a [long-shot](#) for passage as a whole and in its current form.

But there is one intriguing bit that can and should be plucked out and handled separately. Section 9(a)(2), is a tiny paragraph; a simple order directing the Treasury Secretary to immediately end the disastrous Form 1023-EZ experiment. Just toss it out and start over.

It can be done administratively without any Congressional mandate. "What the Treasury Department giveth" in 2014 with the stroke of a pen (and against the strong advice of almost everyone), the Treasury Department "can taketh away...."

A Seat at the Table

"A bill was introduced in Congress yesterday," writes Paul Clolery in *The NonProfit Times*, "that if passed by both chambers and signed by the President could [change the relationship](#) between the nonprofit sector and the federal government." *\$50 Million NPO Bill Introduced In Congress* (April 26, 2022). See also *McCollum, Upton Introduce Bill to Strengthen Link Between Nonprofit Sector and Federal Government* (April 26, 2022), [Press Release](#), along with [Fact Sheet: The Nonprofit Sector Strength and Partnership Act H.R. 7587](#) and [Section-by-Section Summary](#).

H.R. 7587 emerged from [ideas and initiatives](#) developed over more than a decade in the nonprofit sector but spearheaded particularly by Independent Sector. See *The Nonprofit Sector Strength and*

Partnership Act of 2022 (December 7, 2021) independentsector.org; and *Nonprofit Seat At The Table: Placing Equity At the Core of Policymaking* (March 8, 2022) marylandlandnonprofits.org.

“Since its inception, the nonprofit sector has served as the bridge between government and community – a role that has ultimately defined America. Yet, despite our scale and unique understanding of community needs, nonprofits are often on the “outside looking in” when federal-level policies are decided. The Seat at the Table initiative aims to move nonprofits beyond the role of merely bridging to implement a strategy of setting the agenda and informing public policy.” Letter to Congress, National and State Organizations Endorse the Nonprofit Sector Strength and Partnership Act (April 25, 2022), independentsector.org

According to Daniel J. Cardinali, President and CEO of Independent Sector, the goal is to “enable our nation’s nonprofits and the more than 12 million workers that our sector employs to do more of what they do best: helping people through service, charity, and compassion so that all people can thrive.” He adds: “This bill addresses a long-standing need for structures and policies that allow our nation’s nonprofits to share regular feedback and advice to the federal government during policy making. It’s an immense step for nonprofits, the nation, and our communities.”

Details of the Bill

H.R. 7587 is the “first step in establishing mechanisms to help nonprofits shape and improve federal policy while expanding opportunities to achieve shared goals....[T]his legislation includes a wide range of structures and policies to give the nonprofit sector a seat at the proverbial table.”

The bill proposes creating a new White House Office, a new Interagency Council, and a new Federal Advisory Board. It also includes many specific programs and projects. The sponsors describe “four intended purposes”:

- “To enhance the ability of the nonprofit sector to address public challenges”
- “To strengthen communities across the United States by making the federal government a more productive partner with nonprofit organizations through the establishment of better federal coordination....”
- “Collect, assemble, and make available federal data and research on the nonprofit sector and to generate new data and research where necessary to support the development of effective federal policy”; and,
- “Raise awareness of the nonprofit sector and the vital civic, social, and economic contributions nonprofit organizations make to the United States.”

Representative McCollum’s office succinctly describes the bill as including “new coordinating offices within the federal government, changes to the Form 1023-EZ and reorganization of the federal grants application system.”

It’s early days. Notwithstanding the endorsement letter published on April 25, 2022 with hundreds of signatories, the overall sector-wide agreement and enthusiasm for the general goals is tempered with hesitancy about the details and size of this legislation.

The Popular Bits

Tim Delaney, president & CEO of the National Council of Nonprofits, told *The NonProfit Times* that, “in the end,” NCN decided to “... endorse the legislation because it seeks to promote a stronger partnership between charitable nonprofits and the federal government to advance the public good.”

There are “... various parts,” he notes, that “are needed to address many challenges the sector has faced.”

First, for instance, NCN likes that the “legislation requires a review of the federal government’s grantmaking practices followed by recommendations to Congress and the Office of Management and Budget.” Mr. Delaney adds: “... [F]ew people realize that charitable nonprofits collectively earn one-third of all the sector’s revenues when governments hire nonprofits to provide essential services to the public on behalf of governments. But nonprofits suffer when governments refuse to pay the full cost of the services, pay very late, and provide haphazard guidance and lax enforcement of government-nonprofit grantmaking protections.”

Second, there’s the no-nonsense approach to addressing the debacle of the Form 1023-EZ. This short-form alternative for seeking 501(c)(3) tax-exempt status was a colossal failure from the start. NCN chief Delaney once commented that it’s “easier to get tax-exempt status under Form 1023-EZ than it is to get a library card.”

H.R. 7587’s plain and simple, “put it out of its misery,” language is particularly welcome: “The Secretary of the Department of the Treasury shall ... revoke the use of form 1023–EZ for nonprofit filing status and initiate a process to replace it, based upon recommendations from the Advisory Board, the nonprofit sector, representatives of the National Association of State Charities Officials and government examinations.” Section 9(a)(2).

“Charitable nonprofits rely on the public’s trust.,” notes NCN’s Delaney. “Without it, we’ll lose donations, volunteers and staff. Yet in 2014, the IRS, to save itself money and catch up on its backlog, effectively stopped screening applications for tax-exempt charitable status to make sure organizations legally qualify. It did so by using a stripped down Form 1023-EZ, that makes it too easy for the IRS to ‘rubber-stamp’ applications and grant nonprofit status to bad actors.”

Conclusion

Paul Clolery of *The NonProfit Times* asked the head of the National Council of Nonprofits for predictions about “whether the bill would pass by year’s end when Congress adjourns.” Tim Delaney “laughed and said, ‘Hope springs eternal.’”

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