

## CA Considers a Charity Crowdfunding Bill

06.28.18 | Linda J. Rosenthal, JD



Unless you've been hiding under a rock for the last two or three years, you know there's an entirely new way to raise money: online crowdfunding. It's being used to promote and financially support a broad range of for-profit and nonprofit projects and causes.

Two years ago, we posted [Crowdfunding: What California Charities Should Know](#), noting that the internet and charitable fundraising are a natural fit. It's a "lightning-speed way to pitch alerts about causes – often in times of emergency – for which generous people in your own background as well as around the globe can help with the click of a mouse." Even back in 2016, this type of online activity was "exploding in popularity. 'The nonprofit and charity sector has particularly benefited from the growth of this financing method.'"

As technology advanced, especially in the last decade, it spawned innovative variations of crowdsourcing including crowdfunding. This "involves collecting money to help start a business, fund a charity, or provide financial assistance to a person in need." What's sometimes called "donation crowdfunding," is at its core – plain and simple – fundraising. It is "charitable solicitation, notwithstanding the apparent ad hoc nature of many of the appeals. And charity regulators – at all levels of government and in *all* jurisdictions where a virtual funding appeal may land – are keenly interested in charitable solicitations *and* solicitors."

### *Existing Regulation of Crowdfunding*

For California charities, the Office of the California Attorney General is the key regulatory agency focused on charitable solicitations. It has issued several helpful publications on a variety of topics, including "Crowdfunding & Nonprofits: The Attorney General's Guide for Crowdfunding Sites, Charities, and Donors." This is fairly viewed as a general stamp of approval with the clear caveat, though, that crowdfunding is subject to regulatory oversight like fundraising solicitations generally. More particularly, "if a crowdfunding site meets the legal definition of a commercial fundraiser or

fundraising counsel then they are required to register with the Attorney General's Registry of Charitable Trusts and comply with all reporting requirements."

See our earlier post: [The Charitable Oversight Role of the California Attorney General: An Introduction](#) , along with additional ones about [fundraising registration requirements](#), and [outside solicitors](#) including "[commercial fundraisers](#)" and "[fundraising counsel](#)." Existing California law imposes requirements not only on outside firms and personnel but on the charities, themselves, for which this solicitation work is done. There are serious consequences for any person or organization not following the rules.

## *New Crowdfunding Bill*

There have been earlier attempts to produce specific crowdfunding solicitation laws around the nation and in California. For example, in 2017, a bill was introduced but did not proceed on to passage. "The last time a crowdfunding bill had been discussed in Sacramento, it ended up in the Assembly Appropriations Committee where '[all good bills go to die](#).'"

In the current legislative session, a new proposal stands a better chance of eventually passing, in part because certain interests opposing this type of legislation have dropped their general objections. Nevertheless, [AB 2556](#), which was introduced in mid-February by Assembly Member Jacqui Irwin (D-Thousand Oaks) and amended on April 19, 2018, will likely be further amended to address ambiguities and criticisms. It currently is being held under submission in committee. This [link](#) has all relevant information including history, language (with amendments), and official analysis. According to the legislative committee analysis summary, "[t]his bill adds to the Supervision of Trustees and Fundraisers for Charitable Purposes Act the ability to engage in 'charitable crowdfunding solicitations' by a new category of persons raising money for charitable purposes known as 'crowdfunding solicitors for charitable purposes,' subject to various registration and reporting requirements, as specified." As currently written, the bill adds specific definitions for terms including "charitable crowdfunding solicitation" and "crowdfunding solicitor for charitable purposes."

Under the current proposed language, a "crowdfunding solicitor for charitable purposes" must "obtain the written consent of a charitable organization prior to using its name in a solicitation unless" the solicitor meets each and every one of **eight** requirements.

While expressing support for the idea of new legislation, expert commentators have [begun to poke holes](#) in the language as written with the goal of seeking eventual consensus on how to make it better as it advances through the legislative process.

## *Crowdfunding Survey*

In connection with this pending legislation in the California Assembly, CalNonprofits has produced a [7-question survey](#) online at its website. "Use crowdfunding at your California nonprofit? We want to hear from you!" As "proposals for regulations emerge" – including AB 2556 – "we [need to hear more](#) about the lived experiences of nonprofits and donors."

## *Conclusion*

Take a look at this draft legislation and let CalNonprofits know about your experiences and thoughts.

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