

Friday, June 4, 2010

The latest edition of the ACR newsletter is available below.

Top News

ACR Advances Legislation to Protect Philanthropic Freedom

On Thursday, May 27, 2010, Governor Charlie Crist of Florida signed into law Senate Bill 998 that protects Florida foundations and the charities they support. ACR, along with a coalition of key legislators, foundations, philanthropic associations and policy organizations, advanced this legislation as part of a state-based strategy to protect donor intent and philanthropic freedom.

S.B. 998 prohibits the state of Florida or any local government from requiring foundations to disclose certain demographic data about board, staff and grantees without the express written permission of the individuals involved; prohibits the state from requiring that a foundation include on its board an individual based on demographic determinants; and, prohibits the state from requiring a foundation to make a grant based on demographic determinants.

ACR believes that this bill protects philanthropic freedom, the right of donors and foundations to give of their financial and other resources as they choose, consistent with the law.

For links to the bill, ACR press release and media, visit acreform.com.

Washington Roundup

Congress was out of session this week for Memorial Day and is expected to return on Monday, June 7th to tackle a number of issues during this next four-week work period. Below is a summary of the issues ACR worked on before the recess as well as a look-ahead to what Congress may consider during the next four weeks.

Wall Street Reform Bill and the New Consumer Financial Protection Bureau:

With the Senate's final vote on financial regulatory reform legislation in May, both the House and Senate have now passed their versions of the bill (H.R. 4173/S. 3217) aimed at Wall Street reform. As you may recall, ACR became involved in this issue because the [Consumer Financial Protection Bureau \(CFPB\)](#) created by this legislation would have had sweeping regulatory authority over any nonprofit organization (including foundations) that solicited for donations and/or offered financial advice, however rudimentary, to their beneficiaries (or donees).

With the "CFPB/Non-Profit Coalition," ACR worked with House committee staff to carve out from the CFPB nonprofit organizations that solicit for donations, and later worked with Senate committee staff to also narrow the scope of CFPB for those nonprofit organizations that offer financial advice.

Legislators from both the House and Senate must now meet to reconcile the differences between the bills, in conference committee. This conference consists of conferees - of both Democrats and Republicans from the House and Senate. The committee will produce a conference report that blends together the two different versions of the bill, and the report is then voted upon by both the House and Senate. If passed in both chambers, the bill is sent to the President for his signature.

The goal, which is rather ambitious, is to send the bill to the President by the Fourth of July. Both versions of the bill are better than the initial bill, but ACR will be advocating in support of the Senate's version of the bill sponsored by Senate Banking Committee Chairman Christopher Dodd (D-CT), a key conferee. We will be working with his office and other allies to advance the Senate's bill.

IRA Charitable Rollover and other Tax Extenders

As you may recall, both the House and Senate separately passed their own version (H.R. 1250/S. 864) of legislation that extends popular tax credits (tax extenders), including the IRA Charitable Rollover provision. The two sides disagree on how to pay for the legislation.

Our last update reported that the House and Senate had agreed upon these pay-fors and it seemed as though Congress was on track to pass the final legislation before the Memorial Day recess.

However, the deal fell apart. The legislation had been expected to cost roughly \$190 billion originally, with only a small portion of that paid-for in the bill. Many Members objected to such an expensive bill not being fully offset by other revenue sources. House and Senate Leadership worked long and hard to scale back the bill and appease those Democratic Members who had objected to the bill, but were unable to come to an agreement. (See Consider This, below, for more analysis).

ACR is pleased to note that the legislation does include an extension of the IRA Charitable Rollover provision. Both Houses are expected to take up the tax extenders legislation on the week of June 7th.

IRS to the Rescue for Small Grantees

Recent press reports highlighted a new requirement for small grantees that caught many by surprise. A 2006 provision in the Pension Protection Act required, for the first time, charities with assets less than \$25,000 to file a form 990-N. This year was the first year charities were required to fill out the form, and the deadline was May 17th.

The day after the deadline had passed however, IRS Commissioner Doug Schulman said in a [statement](#) that charities who had missed the deadline should still complete the form 990-N and that the "IRS will do what it can to help them avoid losing their tax-exempt status." More information on this issue can be found on the IRS website.

In the States

Legislatures in Florida and Virginia have passed measures encouraging the work of the charitable community.

In Florida last week, Governor Crist signed into law legislation (S.B. 998) that would allow foundations to make grantmaking and staffing decisions without undue pressure from government or other state agencies. The legislation is based on model legislation that the American Legislative Exchange Council adopted unanimously in 2009. (A copy of that model can be found [here](#).)

Similarly, in Virginia, the legislature passed a resolution applauding the work of the nonprofit community in Virginia and encouraged the legislature to promote laws and policies to encourage additional charitable activity in the state.

Both of these efforts were spearheaded by the Alliance for Charitable Reform. We will continue to explore opportunities at the state level to protect foundations and the charities they serve from outside pressure on their operations.

Consider This...

Remember the Republican mantra of “no new taxes”? Well, get ready to hear more from what CBS News calls the “no new debt Democrats.” There’s a trend in the making...

Just prior to Memorial Day, a group of dozens of Democrats – mostly moderates but also some liberals – forced the Democratic leadership in the House to dramatically scale back a tax package that would have added over \$130 billion to the deficit. By the time House leadership rallied enough Democrats to pass a revised bill, the Senate had preemptively admitted they didn’t have the votes for that bill by packing up and going home.

And speaking of the Senate, Democrat Tom Harkin of Iowa discovered that despite support for the goal, he just could not rally enough Democrats to add \$23 billion to retain teachers as an amendment to a defense bill. A sizeable group of Senate Democrats said “no way” - not if Harkin couldn’t find a way to pay for that \$23 billion.

Just months ago, Republican Senator Jim Bunning of Kentucky was roundly denounced by his Democratic colleagues for refusing to agree to a package of unemployment benefits on the grounds that the package would add to the deficit. So what changed?

We believe we’re entering a new phase where the politics of deficit reduction matters. Polls show Americans are increasingly uncomfortable with deficit spending and they’re throwing out of office those who got us to this point: incumbents.

Just how much support and intensity will the “no debt Democrats” muster going forward? That remains to be seen but they certainly had something of a remarkable victory that went almost unnoticed in the media coverage of “don’t ask, don’t tell” and the oil spill.

And, what does all this focus on no new debt mean for the foundation community? It means that Congress will likely have to “pay for” new spending with new tax increases, even perhaps on the non-profit community.

Making Headlines

Here are recent headlines you may find interesting:

Federal

5/27 Funders of the \$50-million Social Innovation Fund (SIF) were announced last week by the White House ([New York Times](#)). Five foundations pledged \$45 million: The Eli and Edythe Broad Foundation (\$10 million); the John and Ann Doerr's Family Foundation (\$5 million); Omidyar Network (\$10 million); Open Society Foundations’ Special Fund for Poverty Alleviation (\$10 million); and the Skoll Foundation (\$10 million).

Press coverage includes:

- 5/27 [Nearly \\$50-Million From Foundations Added to White House Social Innovation Fund](#) - *Chronicle of Philanthropy* reports that the Council of Foundations released a letter to the president in support of SIF signed by 140 community foundations.

- 6/1 [Opinion: A Wasted Opportunity for Foundations and Government](#) - In this *Chronicle of Philanthropy* op-ed Pablo Eisenberg expresses his ire with SIF calling the \$50 million investment a "drop in the bucket".

5/24 [Proposed Donor Disclosure Requirements Worry Some Nonprofit Experts](#) - *Chronicle of Philanthropy* reports on efforts to overturn the *Citizens United* Supreme Court case by introducing legislation that will require 501c4 issue campaigns and corporations to disclose their donors.

State

5/26 [Nonprofits Gather in Raleigh to Make Their Voices Heard](#) - *Asheville Citizen-Times* reports on North Carolina nonprofits gathering for a lobbying day to remind state legislators of the importance of nonprofits in their communities and to save the charitable deduction.

5/24 [Amid Red Ink, Tax-Exempts Asked to Add to Coffers](#) - Continuing a recently reported trend (see newsletter [archives](#)), *NPR* reports on nonprofits being asked to fill the void for state and local budget shortfalls.

Reports/Studies

5/27 [2009 Household Charitable Giving Down 5% from 2008](#) - New report from the Center of Wealth and Philanthropy at Boston College finds that individual giving in 2009 declined by 4.9% (or \$11.2 billion) to \$217.3 billion from 2008, which is a smaller decrease than the 6% decline in 2008.

5/21 [Despite Asset Gains, Most Grant Makers Will Keep Purse Strings Tight in 2010](#) - *Chronicle of Philanthropy* report, based on a recent *Chronicle* survey, that despite some modest gains in asset value last year, many foundations are wary of the future and will hold steady or decrease their giving in 2010.

Other

5/12 The W. K. Kellogg Foundation commits \$75 million over five years to counter racial inequity as reported in the [Chronicle of Philanthropy \(5/12\)](#). Related press include:

- 5/21 [Kellogg's Bet on 'Racial Healing'](#) - In a *Wall Street Journal* op-ed Harvard professor Stephan Thernstrom cautions against Kellogg's efforts suggesting instead that Kellogg should focus on innovative efforts for disadvantaged children that improve their cognitive skills.

- 5/27 [Structural Racism Still Abounds and We're Fighting It](#) - Sterling Speirn, President and CEO of the Kellogg Foundation, responds to Thernstrom's criticism in a *Wall Street Journal* letter to the editor and makes a case for why efforts to reverse structural racism are needed.

- 5/24 [A View from the Field: Combating Racial Disparities](#) - In her *Huffington Post* blog, Jane Wales applauds Kellogg's efforts to counter racial inequity.

5/24 [Foundations offer loans as a way to help nonprofits](#) - *Buffalo News* reports on foundations that provide loans to non-profits (called program-related investments or PRIs) instead of grants.

5/19 [Japan Seeks to Expand Nonprofit Groups](#) - *Japan Times* reports on efforts by about Japan's Ministry of Economy, Trade, and Industry to actively grow the nonprofit sector in the country through tax incentives and other measures.

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2010 Philanthropy Roundtable Annual Meeting

Explore, Dream, Discover: The Power of Philanthropy

October 14-16 ~ Amelia Island, Florida

Register early for discounts (www.philanthropyroundtable.org)

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