

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 4. SUPERVISION OF TRUSTEES AND FUNDRAISERS FOR CHARITABLE PURPOSES ACT and

CHAPTER 15. ATTORNEY GENERAL REGULATIONS REGARDING ADMINISTRATIVE ENFORCEMENT OF THE SUPERVISION OF TRUSTEES AND FUNDRAISERS FOR CHARITABLE PURPOSES ACT

ECONOMIC AND FISCAL IMPACT STATEMENT (STD 399) ATTACHMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

Total Number of Business Impacted: 1,050

The Department estimates that approximately 50 platform charities and 1,000 charitable fundraising platforms will be required to register and file reports annually.

Charitable entities are exempt from the definition of “small business” pursuant to Government Code, section 11342.610, subdivision (b), however, some charitable fundraising platforms may meet the definition of “small business.”

The proposed initial registration fee for charitable fundraising platforms is \$625, and the annual registration fee is also \$625, resulting in estimated annual revenue of \$625,000 ($\$625 * 1,000 = \$625,000$). The fee is based on need (i.e., to cover the costs incurred by the Department discussed in section B below). This fee is similar to the \$500 annual registration fee charged to other fundraising professionals (commercial fundraiser, fundraising counsel, commercial coventurer).

The Legislature adopted AB 488 to address the lack of specific authority to provide oversight over charitable fundraising platforms and platform charities that operate in California. These entities did not typically register and report under existing registration categories in spite of holding charitable assets or soliciting charitable donations. Although charitable fundraising platforms is a new fundraising professional type created by AB 488, most charitable fundraising platforms were required to register as commercial fundraisers, fundraising counsel, or commercial coventurers prior to AB 488, and should have already been paying a \$500 annual fee. Thus, only \$125 of the \$625 annual registration fee is a new cost on charitable fundraising platforms created by the proposed regulation, and for 1,000 charitable fundraising platforms, this would be \$125,000 ($\$125 * 1,000 = \$125,000$).

The Department is migrating to an electronic payment system and is in the process of contracting with a vendor to manage the electronic payment gateway. Each electronic payment will result in a one-time processing fee of either 2.3 percent if paid by credit card, or \$0.22 if paid by e-check (ACH). Credit card processing fees will be paid directly to the vendor. ACH fees will be invoiced to the Department. The processing fee for credit card transactions will be \$14.38 per transaction ($\$625 * .023 = \14.38). The Department estimates that 50 percent of charitable fundraising platforms will pay by credit card, resulting in an average electronic payment

processing fee of \$7.19 per transaction ($\$14.38/2 = \7.19). The total average cost for a charitable fundraising platform to make an annual registration payment electronically will be \$632.19 ($\$625 + \$7.19 = \632.19).

Platform charities would be required to register annually as trustees. Although the initial registration fee for platform charities as trustees is \$50, the renewal fees range from \$25 to \$1,200, depending on the platform charity's revenue from the prior year. For 50 platform charities, the Department estimates an average registration renewal fee of \$500, which includes platform charities that are not already registered as trustees and should have already been registered. This results in estimated annual revenue of \$25,000 ($\$500 * 50 = \$25,000$).

Of the \$650,000 in estimated revenue generated by the registration fees for charitable fundraising platforms and platform charities, at least \$500,000 should have been generated in the absence of this regulation due to existing registration requirements. Thus, the Department estimates \$150,000 of the anticipated revenue will constitute new private sector costs.

Registration forms PL-1 and PL-2 implement the requirements of Government Code section 12599.9 that require a charitable fundraising platform to register annually with the Attorney General's Registry of Charities and Fundraisers on a form provided by the Attorney General. Meanwhile, a platform charity would use forms CT-1 and RRF-1 to register annually as a trustee, as required by Government Code sections 12582, 12585, 12586, and 12599.9.

Existing law requires commercial fundraisers, for each charity for which the fundraiser solicits donations, to have contracts containing specific language and to file notices and annual reports with the Registry of Charities and Fundraisers regarding their solicitation activities. (See, e.g., Gov. Code, § 12599.) AB 488 codified Government Code sections 12599.9 and 12599.10, and was implemented, in part, to address concerns about the ability of charitable fundraising platforms to comply with existing reporting requirements. While the regulations primarily implement the requirements of AB 488, to the extent the regulations' new forms (PL-1, PL-2, PL-3, and PL-4) may require information not expressly required by Government Code sections 12599.9 and 12599.10, the Department does not expect it will result in new costs because the entities were required to report under existing law and the information required to be reported is information that is required to be maintained under existing law.

Government Code section 12599.9 requires a charitable fundraising platform or platform charity to file annual reports, under oath, with the Attorney General's Registry of Charities and Fundraisers on a form provided by the Attorney General. This section further requires that the reports shall:

(1) Enable the Attorney General to ascertain whether charitable funds have been properly solicited, received, held, controlled, or distributed in compliance with this article, including, but not limited to, providing information on the number of donations made, the amounts raised, the length of time for distributing donations or grants of recommended donations, the fees charged by or through a charitable fundraising platform or platform charity, and information on recipient charitable organizations or other charitable organizations that were sent or were not sent

donations or grants of recommended donations. (Gov. Code, § 12599.9, subd. (c)(1).)

The reports, more specifically Form PL-4, also require that registrants provide information regarding compliance with other provisions of Government Code sections 12599.9 and 12599.10. The Department expects that any costs incurred in preparing the reports beyond what is expressly required by Government Code section 12599.9, subdivision (c)(1), will be incidental or insignificant.

B. FISCAL EFFECT ON STATE GOVERNMENT

Fiscal Estimates Provided in AB 488's Legislative History

The bill analysis provided by the Senate Appropriations Committee contained the following information regarding AB 488's impact on state government:

Fiscal Impact: The Department of Justice reports ongoing annual personnel costs of \$626,000 associated with this measure. These costs would be offset in whole or in part, depending on how many entities register and the fee amounts collected, by registration and annual renewal fees paid by charitable fundraising platforms and platform charities. (Special fund, General Fund)*

Specifically, the department indicates that it would require 1.0 Staff Services Analyst, 1.0 Deputy Attorney General, 1.0 Investigative Auditor, and 1.0 Legal Secretary to handle the additional workload resulting from AB 488.

**Registry of Charitable Trusts Fund—structurally imbalanced*

(California Bill Analysis, A.B. 488 Assem., 8/26/2021.)

The regulations implementing AB 488 are currently expected to have a fiscal impact on the Registry of Charities and Fundraisers and the Department of approximately \$659,000 per year. Although almost all of the entities subject to the new registration fees are subject to existing registration fees, these entities did not typically register and report under existing registration categories in spite of holding charitable assets or soliciting charitable donations. Registration fees from charitable fundraising platforms are expected to result in \$625,000 of new revenue for the Registry of Charities and Fundraisers, and \$25,000 from platform charities.

Anticipated initial costs include the development and implementation of the regulations and new forms, with ongoing annual personnel costs of \$659,000 to implement the provisions of AB 488. Beginning in January 2024, when charitable fundraising platforms begin their registration and going forward, the Registry will require 1.0 Staff Services Analyst to intake and analyze form submissions, and the Charitable Trusts Section will require 1.0 Deputy Attorney General, 1.0 Investigative Auditor, and 1.0 Legal Secretary to handle referrals and investigations related to charitable fundraising platform solicitations, and compliance with AB 488 and the implementing regulations. The estimated \$650,000 registry fee revenue would be deposited into the Registry of Charities and Fundraisers Fund that would pay for these anticipated costs.

	FY 2023-24	Ongoing
Cost Estimate	\$659,000	\$659,000
Positions	4.0	4.0