

HOUSE BILL 2054

By Rogers

AN ACT to amend Tennessee Code Annotated, Title 48,
Chapter 101, Part 5, relative to solicitations.

WHEREAS, the Supreme Court of the United States has ruled in *Citizens United v. Fed. Election Comm.*, 558 U.S. 310 (2010), that the government may not suppress political speech on the basis of the speaker's corporate identity; and

WHEREAS, federal regulations establish as a matter of law that an "action organization" is an organization that has a substantial part of its activities in attempting to influence legislation; and

WHEREAS, federal law classifies under the Internal Revenue Code Section 501(c)(4), and regulations enacted pursuant thereto, issue advocacy groups as frequently being engaged in activities whereby they promote or attempt to influence public policy, including legislation, and that such entities are not as a matter of federal law classified as "charities," nor do donations to such entities give rise to charitable deductions; and

WHEREAS, requiring issue advocacy groups to register and be regulated as a "charity" violates the First Amendment of the United States Constitution and the Tennessee Constitution and may constitute an impermissible infringement on the rights of citizens and such organization to free speech and to the free exercise of the right to petition government for desired changes; and

WHEREAS, it appears that individuals who support, financially or otherwise, entities recognized by the Internal Revenue Service as Section 501(c)(4) entities and which entities engage in activities to advocate for or against matters relating to public policy do so not for charitable purposes but for the purpose of supporting or protecting a public policy or political agenda; and

WHEREAS, amending Tennessee's charitable solicitation laws to include issue advocacy groups within the excluded groups under Tennessee Code Annotated, § 48-101-502, would protect constitutional rights of the citizens and the § 501(c)(4) entities that they voluntarily support; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 48-101-502(a), is amended by adding the following new subdivision:

(8) An organization exempt from federal income taxation under § 501(c)(4) of the Internal Revenue Code (26 U.S.C. § 501(c)(4)), and files with the secretary of state a written statement signed by an officer, director, or other responsible party, that the organization is a tax exempt § 501(c)(4) entity that operates as an advocacy organization. For purposes of this subdivision (a)(8), "advocacy organization" means an organization whose activities include attempting to influence legislation or other government action. An organization is attempting to influence legislation or other government action if the organization:

(A) Contacts or urges the public to contact members of a legislative or other government body for the purpose of proposing, supporting, or opposing legislation, executive orders, administrative rules, or other government action;

(B) Advocates for the adoption or rejection of legislation, executive orders, administrative rules, or other government action; or

(C) Employs lobbyists.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.