

**HOUSE . . . . . No. 2863**

By Mr. Casey of Winchester, petition of Paul C. Casey relative to the auditing of certain non profit organizations. Revenue.

**The Commonwealth of Massachusetts**

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE AUDITING OF CERTAIN NON PROFIT ORGANIZATIONS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 21C of the General Laws, as appearing in  
2 the 2002 Official Edition, is hereby amended by inserting, after  
3 Section 8A, the following section:—

4 Section 8B. The trustee or trustees or the governing board of  
5 every charitable organization shall annually, at a time to be deter-  
6 mined by the commissioner, file with the department a written report  
7 for its last preceding fiscal year. Such report shall be filed on forms  
8 prescribed by the commissioner and shall contain such financial and  
9 other information as the commissioner may require.

10 A charitable organization which received more than one \$100,000  
11 in gross support and revenue, including any gains or losses from the  
12 sale of a capital asset, during the fiscal year covered by its report  
13 must submit a complete audited financial statement together with its  
14 annual report. The audited financial statement shall be prepared in  
15 accordance with such generally accepted accounting principles and  
16 reporting practices as may from time to time be prescribed by the  
17 American Institute of Certified Public Accountants, or its successor  
18 organization, and shall be examined by an independent certified  
19 public accountant in accordance with generally accepted auditing  
20 standards for the purpose of expressing an opinion thereon. A chari-  
21 table organization which received not more than \$250,000 in gross  
22 support and revenue during the fiscal year covered by its report may  
23 in lieu of an audited financial statement submit a financial statement  
24 accompanied by an independent certified public accountant’s review  
25 report as such report is defined by the American Institute of

26 Certified Public Accountants. The commissioner may, by regulation,  
27 exempt certain types or classes of organizations from the audit or  
28 review report requirement or from completing any portions of the  
29 annual report if the commissioner determines that such exemption  
30 would be in the public interest.

31 The annual reports and any other documents prescribed by the  
32 commissioner shall be signed by an authorized officer of the chari-  
33 table organization and shall be verified under oath. For each report, a  
34 filing fee shall be paid to the department at the time of the filing in  
35 the following amount, based on the gross support and revenue  
36 received during the fiscal year covered by the report, as follows:—

37 (a) \$35, if not more than \$100,000;

38 (b) \$70, if more than \$100,000 but not more than \$250,000;

39 (c) \$175, if more than \$250,000 but not more than \$500,000;

40 (d) \$250, if more than \$500,000. In the event that any charitable  
41 organization shall fail to file a report required hereunder, the depart-  
42 ment may bring an action to restrain the organization from trans-  
43 acting any business in the commonwealth or may take such other  
44 action as may be appropriate to compel compliance with the provi-  
45 sions of this section.

46 If any organization fails to file an annual report required by this  
47 section of this chapter, any justice of the supreme judicial or the  
48 superior court, on petition of the commissioner or of any 10 taxable  
49 inhabitants of the Commonwealth, shall issue a writ of mandamus  
50 requiring such person to file such report. The order of notice on the  
51 petition shall be returnable not later than 10 days after the filing  
52 thereof. The petition shall be heard and determined on the return day  
53 or on such day thereafter as the court shall fix, having regard to the  
54 speediest possible determination of the cause consistent with the  
55 rights of the parties. The judgment shall include costs in favor of the  
56 prevailing party. All writs and processes may be issued from the  
57 clerk's office in any county, and, except as aforesaid, shall be return-  
58 able as the court orders.

59 Any charitable organization, or the responsible officer or agent of  
60 a charitable organization, who willfully fails to file a written report  
61 for any year shall be assessed a civil penalty of not more than \$500.  
62 Any charitable organization, or any officer or agent of a charitable  
63 organization, who willfully makes, executes or files a report false in  
64 any material representation shall be punished by a fine of not more

65 than \$5,000 or by imprisonment for not more than 1 year or both  
66 such fine and imprisonment.