Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 2208 (Irwin) – As Amended May 4, 2020

Policy Committee: Judiciary Vote: 8 - 2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill requires the Attorney General to establish rules and regulations for overseeing charitable fundraising platforms (CFP) and platform charities within the meaning of the Supervision of Trustees and Fundraisers for Charitable Purposes Act (STFCPA).

Specifically, this bill:

1) Requires a CFP or platform charity to register with the Attorney General's Registry of Charitable Trusts before soliciting, permitting or enabling solicitations. Charitable trusts must annually report to the DOJ and pay an annual registration fee.

2) States a CFP or platform charity may only solicit, permit, or otherwise enable solicitations, or receive, control or distribute funds from donations for organizations in good standing.

FISCAL EFFECT:

1) Costs (GF/Registry of Charitable Trusts Fund) to the Department of Justice (DOJ) of $395,000 in fiscal year (FY) 2020-21 and $618,000 annually thereafter in increased workload. DOJ estimates workload will increase by 444 hours requiring four additional positions.

2) Unknown annual increased revenue to the DOJ in first-time and ongoing registration fees from CFPs. Fees range from $25 to $300, based on the organization's gross annual revenue.

COMMENTS:

1) **Purpose.** According to the author:

   > AB 2208 provides a necessary update to California's charitable fundraising laws to ensure donors, non-profits, and online charity platforms can continue their philanthropic work in our state.

2) **The Supervision of Trustees for Charitable Purposes Act**. The STCPA requires the DOJ to register charitable corporations, unincorporated associations and trustees that hold assets for charitable purposes to disperse at the discretion of the donor. While the assets in the fund are no longer controlled by the donor, typically, the fund sponsor permits the donor to direct the sponsor's charitable giving activities originating with the assets in the fund. Donor-advised funds (DAFs) provide significant tax benefits by reducing a person's overall tax

liability. A donor may contribute up to 50% of cash income and 30% of appreciated property to a DAF. These donation limits are significantly higher than those in place for charitable foundations for which donations are legally limited to 30% of cash income and 20% of appreciated property. DOJ submitted a budget change proposal on January 8, 2020, seeking funding for 12 new positions and $1.6 million this fiscal year to enhance the Charitable Trust section's efforts to enforce DAF registration and reporting requirements and detect possible fraud and misuse of charitable assets.

3) **Charitable Corporation Registration.** DOJ requires charitable corporations to register and file annual reports on fundraising activities. The failure to renew the registration will lead to the charitable organization being listed as delinquent with the Attorney General's Registry of Charitable Trusts and may lead to the loss of tax-exemption status with the Franchise Tax Board. Registration renewal fees must be paid each year by charitable organizations with gross annual revenues of $25,001 or more. The fee is set on a sliding scale, ranging from $25 to $300, based on the organization's gross annual revenue.

4) **Related Legislation.** AB 1712 (Wicks) requires the DOJ to adopt rules and regulations requiring DAFs of at least $300 million dollars to disclose information about individual funds and accounts to ensure funds are properly used for charitable purposes. AB 1712 was never heard in the Assembly Appropriations Committee.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081