

Date of Hearing: May 1, 2025

Fiscal: Yes

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

AB 576 (Irwin) – As Amended March 28, 2025

SUBJECT: Charitable giving: online fundraising

SYNOPSIS

To address the lack of oversight for websites, services, and platforms that enable online charitable solicitation, AB 488 (Irwin; Ch. 616, Stats. 2021) expanded statutory provisions governing the Attorney General's supervision of charities to include a new regulatory framework specific to charitable fundraising platforms and platform charities. Among other consumer protections, AB 488 requires that these entities only work with, or on behalf of, charitable organizations that are in "good standing" – that is, the charitable organization's tax-exempt status has not been revoked by the Internal Revenue Service (IRS) or the Franchise Tax Board (FTB), and the organization has not been prohibited from soliciting or operating in the state by the Attorney General (AG). To determine good standing, charitable fundraising platforms and platform charities may rely on electronic lists periodically published by the IRS, FTB, and the AG's Registry of Charities and Fundraisers.

To reduce delay and uncertainty in ascertaining good standing, this author-sponsored measure would additionally enable charitable fundraising platforms and platform charities to rely on application programming interfaces provided by the IRS, FTB, or AG. The bill would also require the AG to establish any necessary rules or regulations for the specifications for an application programming interface. The bill has no support or opposition.

THIS BILL:

- 1) Enables platform charities and charitable fundraising platforms to rely on application programming interfaces provided by the IRS, FTB, or AG, to determine whether a charitable organization is in good standing.
- 2) Requires the AG to establish any necessary rules or regulations for the specifications for an application programming interface under 1).

EXISTING LAW:

- 1) Establishes the Supervision of Trustees and Fundraisers for Charitable Purposes Act. (Gov. Code § 12580 et seq.)
- 2) Defines:
 - a) "Charitable fundraising platform" as a legal entity, with certain exceptions, that uses the internet to provide an internet website, service, or other platform that enables acts of solicitation, such as:
 - i) Providing lists or references of recipient charitable organizations to receive donations or grants or recommended donations made by donors who use the platform.

- ii) Permitting persons who use the platform to solicit donations for or recommend donations to be granted to one or more recipient charitable organizations through peer-to-peer charitable fundraising.
 - iii) Permitting persons who use the platform to select one or more recipient charitable organizations to receive donations or grants of recommended donations made by a platform, platform charity, or other third party person, based on purchases made or other activity performed by persons who use the platform.
 - iv) Providing lists or references by name one or more recipient charitable organizations to receive donations or grants of recommended donations made by the platform based on purchases made or other activity performed by persons who use the platform.
 - v) Providing to charitable organizations a customizable internet-based website, software as a service, or other platform that allows charitable organizations to solicit or receive donations on or through the platform, including through peer-to-peer charitable fundraising. (Gov. Code § 12599.9(a)(1).)
- b) “Platform charity” as a trustee or charitable corporation, with certain exceptions, that facilitates acts of solicitation on a charitable fundraising platform, including:
- i) Soliciting donations through a charitable fundraising platform for itself from donors who use the charitable fundraising platform with the implied or express representation that the platform charity may grant donations to recipient charitable organizations.
 - ii) Granting funds to recipient charitable organizations based on purchases made or other activity performed by persons who use a charitable fundraising platform. (*Id.* at (a)(5).)
 - c) “Good standing” to mean that a platform charity, recipient charitable organization, or other charitable organization’s tax-exempt status has not been revoked by the Internal Revenue Service, or the Franchise Tax Board, and is not prohibited from soliciting or operating in the state by the Attorney General. (*Id.* at (a)(3).)
- 3) Provides that charitable fundraising platforms and platform charities are trustees for charitable purposes subject to the AG’s supervision. Before soliciting or enabling solicitations, requires that charitable fundraising platforms register with the AG’s Registry of Charities and Fundraisers. Registration must be renewed yearly. Platform charities must also register with the AG, and if they partner with charitable fundraising platforms, the platform must promptly notify the AG’s Registry of Charities and Fundraisers, except as specified. (*Id.* at (b).)
- 4) Requires charitable fundraising platforms and platform charities to file annual reports with the AG’s Registry of Charities and Fundraisers to enable the AG to ensure compliance. (*Id.* at (c).)
- 5) Requires platform charities to have good standing in order to facilitate acts of solicitation on a charitable fundraising platform. Prohibits charitable fundraising platforms or platform charities from soliciting or enabling solicitations or receiving, controlling, or distributing

donations for recipient charitable organizations or other charitable organizations that are not in good standing. Provides that charitable fundraising platforms and platform charities may determine good standing by relying on electronic lists periodically published by the IRS, FTB, and the AG's Registry of Charities and Fundraisers, provided that the lists are in a machine-readable structured data format. If an agency does not publish such a list, the charitable fundraising platform or platform charity is not required to comply with the verification requirement with respect to that agency while the list is unavailable. (*Id.* at (d).)

- 6) Requires charitable fundraising platforms and platform charities to provide certain disclosures to potential donors before they can complete the donation or select or change a recipient charitable organization. (*Id.* at (f).)
- 7) Prohibits charitable fundraising platforms and platform charities from misusing donations and requires them to promptly ensure donations and grants of recommended donations are sent to recipient charitable organizations with an accounting of any fees imposed. (*Id.* at (h).)
- 8) Requires the AG to establish rules and regulations necessary for the administration of the provisions described above. (Gov. Code § 12599.10(a).)

COMMENTS:

1) **Author's statement.** According to the author:

I was proud to author AB 488 in 2022, working with the Attorney General and a broad stakeholder group, to update the Supervision of Charitable Trustees Act to address new developments in charitable giving. The bill specifically addressed the growth of online platforms facilitating charitable solicitations by creating new registration requirements for Charitable Fundraising Platforms and Platform Charities and a host of guardrails to ensure both donors and recipient charities were being well served. The final set of regulations implementing AB 488 went into effect earlier this year, making this legislative session an appropriate time to reconvene stakeholders and understand if changes or updates are needed.

While I anticipate this bill will grow as stakeholder concerns are vetted, the current inclusion of an Automated Programming Interface (API) for the DOJ's registry lists speaks to a key functional need raised by stakeholders to more quickly and efficiently update platform listings of charities eligible to solicit in California.

2) **Background.** Under California law, the AG oversees registered charities to ensure that funds received are properly managed and devoted to charitable programs. To address the lack of oversight over internet sites that perform or enable charitable solicitation, the author carried AB 488 (2021), which established that charitable fundraising platforms and platform charities are trustees for charitable purposes subject to the Attorney General's supervision. "Charitable fundraising platform" means certain persons or legal entities that use the internet to provide a website, service, or other platform to persons in this state, and perform, permit, or otherwise enable acts of solicitation to occur. Such acts include soliciting donations intended for recipient charitable organizations referenced on the platform, permitting persons who use the platform to solicit donations intended for recipient charitable organizations, referencing charitable organizations to receive donations, and providing a customizable platform to charitable organizations that solicit or receive donations through the platform.

A “platform charity” is a trustee or charitable corporation that facilitates acts of solicitation on a charitable fundraising platform, including soliciting donations through a charitable fundraising platform for itself from donors who use the platform with the implied or express representation that the platform charity may grant donations to recipient charitable organizations, or granting funds to recipient charitable organizations based on purchases made or other activities performed by persons who use the platform. Charitable fundraising platforms are usually the consumer-facing website or platform that solicits donations on behalf of charities. Platform charities are actual charitable organizations whose purpose is to facilitate online charitable giving, including by ensuring that donations retain their tax-exempt character. For example, PayPal is registered as a charitable fundraising platform, while PayPal Giving Fund is a platform charity registered as 501(c)(3) that partners with PayPal to manage donations to certain recipient charities.

Before soliciting, permitting, or otherwise enabling solicitations, charitable fundraising platforms must register with the AG’s Registry of Charitable Trusts. Platform charities must also register with the AG, and if a charitable fundraising platform partners with a platform charity, the platform must disclose this to the AG. Charitable fundraising platforms and platform charities must file annual reports with the AG’s Registry of Charities and Fundraisers to enable the AG to ensure compliance. Charitable fundraising platforms and platform charities are restricted to soliciting or enabling solicitations, or receiving, controlling, or distributing funds from donations for recipient or other charitable organizations in “good standing,” with the IRS, FTB, and AG. In order to prevent the likelihood of deception, confusion, or misunderstanding, charitable fundraising platforms and platform charities must provide certain disclosures to potential donors before they can complete the donation or select or change a recipient charitable organization. These entities are prohibited from misusing donations and must promptly ensure donations and grants of recommended donations are sent to recipient charitable organizations with an accounting of any fees imposed.

In March 2024, the Attorney General finalized regulations to implement AB 488.¹

3) What this bill would do. As mentioned above, AB 488 restricts platform charities and charitable fundraising platforms to enabling solicitations or assisting with donations for charitable organizations that are in “good standing” – that is, the organization’s tax-exempt status must not have been revoked by the IRS or the FTB, and the organization cannot be prohibited from soliciting or operating in the state by the AG. Charitable fundraising platforms and platform charities may determine good standing by relying on electronic lists periodically published by these agencies, provided that the lists are in a machine-readable structured data format. If an agency does not publish such a list, the charitable fundraising platform or platform charity is not required to comply with the verification requirement with respect to that agency while the list is unavailable.

This bill would, in addition to the electronic lists published by the IRS, FTB, or AG, enable platform charities and charitable fundraising platforms to rely on application programming interfaces (API) made available by those entities. The bill would require the AG to establish any necessary rules or regulations for the specifications for an API, as specified.

¹ State of California Office of Administrative Law, Notice of Approval of Regulatory Action (Mar. 26, 2024), <https://oag.ca.gov/system/files/media/pf-oal-approval-letter.pdf>.

API are sets of software instructions or standards that allow for machine-to-machine communication to support real-time sharing of content and data. API have been used by some government agencies to provide information to the public with more efficiency. For example, the National Weather Service publishes an API that makes weather data more readily available to internal and external actors.²

According to the author, the good-standing requirement under AB 488 has inadvertently put charitable fundraising platforms in a difficult position. The AG's list of entities that may not operate in California is updated every two weeks and often contains entities that have committed minor transgressions (such as delinquency in filing an annual registration form) and are unaware of their ineligibility. As a result, charitable fundraising platforms often are the first to inform ineligible charities of their status; meanwhile, the platform often must take corrective action with respect to donations intended for the charity, including seeking an acceptable alternative charity within specified regulatory timelines. As this process is unfolding, the original charity may have restored its good standing, although its updated status will not be reflected until a new list is issued.³ Real-time updates facilitated by an API would help avoid this needless bureaucratic rigmarole.⁴

Going forward, the author intends to work on a handful of additional refinements to AB 488 that will be incorporated into this bill. To this end, her office has been working extensively with numerous stakeholders to find consensus on forthcoming changes.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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² GitHub, "Introduction to APIs in Government," https://18f.github.io/API-All-the-X/pages/introduction_to_APIs_in_government/.

³ Karen I. Wu, "Has Your Organization been Blocked by Charitable Fundraising Platforms? It is likely due to California's new 'Good Standing' requirement," <https://perlmanandperlman.com/ab488-good-standing/>.

⁴ At least one charitable fundraising platform, Candid, has already created API for this purpose: "California nonprofit status data added to Charity Check API," <https://developer.candid.org/changelog/923-california-data-added-to-charity-check-api>