



FOSTER PEPPER PLLC



Association of  
Washington  
Public Hospital  
Districts

# Fund-Raising by Public Hospital Districts: Ensuring Compliance with State Law



# Presenters



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# TECHNICAL NOTES

- During the presentation, one-way phone connection (we cannot hear you)
- To submit a question or comment
  - *During the presentation*, click the “type here to chat” button on the right of your screen; type your message and click “send”
  - *After the presentation*, we will open the phone lines and take your questions and comments

# INTENDED RESULTS

We expect to accomplish the following three things:

- ❖ Provide a *brief* history of the issue
- ❖ Explain new legislation
- ❖ Identify and explain issues raised by the legislation

# HISTORY

Over the past several years, the State Auditor's Office (SAO) identified three issues:

- ❖ State law did not expressly authorize “fund-raising” as one of a PHD’s powers
- ❖ Some PHDs provide space, staff, etc., to their affiliated foundation without appropriate consideration or a written agreement
- ❖ Some PHDs engaged in promotional activities that the SAO believed were not authorized

# AWPHD-Initiated Legislation

- SB 5116 passed unanimously and was signed by the Governor
- Effective July 22, 2011
- New law covers three areas:

# AWPHD-Initiated Legislation



Authorizes public hospital districts to solicit and accept gifts, grants, bequests and devises of personal and/or real property

# AWPHD-Initiated Legislation



Authorizes public hospital districts to spend, invest or sell the gifts or property or proceeds of either

# AWPHD-Initiated Legislation



Authorizes public hospital districts to enter into contracts with organizations for fund-raising activities

# Fund-Raising Options

- Directly through the public hospital district
- Indirectly through an affiliated foundation or other organization

# Direct Fund-Raising by PHDs: Advantages/Disadvantages

- Advantages

- No need to establish separate legal entity and obtain Section 501(c)(3) status
- No limitations on transfers of money, personnel or property

- Disadvantages

- More difficult to involve volunteers and community leaders
- All activities are subject to the same limitations applicable to public hospital districts

# Indirect Fund-Raising: Advantages/Disadvantages

- Advantages
  - Community leaders can be appointed to separate board
  - Activities may not be subject to legal limitations applicable to public hospital districts
- Disadvantages
  - Requires separate legal entity/Section 501(c)(3) status
  - May operate more independently
  - Any support of the foundation by the public hospital district requires an appropriate agreement

# Issues That Must Be Addressed In Organizing A Foundation

Who establishes the foundation?

- Public hospital district
- Community members
- Combination

# Issues That Must Be Addressed In Organizing A Foundation

What is the purpose of the foundation?

- Support the PHD exclusively or support the PHD and other organizations and causes
- Engage in fund-raising exclusively or fund-raising and other activities such as education, promotion, etc.

# Issues That Must Be Addressed In Organizing A Foundation

What is the basis for the foundation's federal tax exemption?

- Supporting organization of PHD
- Independent public charity

# Issues That Must Be Addressed In Organizing A Foundation

What control or reserve powers are granted to a PHD?

- Appointment or approval of some or all of the directors
- Amendment of articles or bylaws
- Approval of annual budget
- Approval of fund-raising plan
- Approval of distribution of assets

# Issues That Must Be Addressed In Foundation Support Agreements

- Foundation's obligation to engage in fund-raising on behalf of the PHD
- Specification of measurable fund-raising goals?
- Specification of support to be provided by the PHD:
  - Space
  - Equipment
  - Supplies
  - Personnel
  - Marketing and other services



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# Questions?



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