



State Policies Can Help Nonprofits with COVID-19 Recovery

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As Governor Roy Cooper and state legislators develop policy solutions to best equip North Carolina to handle the COVID-19 pandemic, it is essential that they take action to support the operations of the thousands of nonprofit organizations in the state that are struggling to meet growing needs with fewer resources during this crisis. Nonprofits provide essential services in communities in all 100 counties of North Carolina, often in partnership with the public sector. Nonprofits are also a substantial employer, comprising more than 10% of North Carolina's private workforce. It is in everyone's best interest to maintain a thriving nonprofit sector in our state.

The North Carolina Center *for* Nonprofits has been seeking input from nonprofits about the ways that the COVID-19 pandemic is affecting their organizations and the communities they serve. Here are several policy solutions that would be immensely helpful to the nonprofit sector. The Center will make additional suggestions for policy solutions as we continue to learn more about the hardships nonprofits are facing during the pandemic.

Unemployment insurance. Businesses and nonprofits throughout North Carolina are making difficult decisions about staff layoffs and furloughs in light of the economic challenges that are resulting from the public health response to the pandemic. These challenges are being felt particularly acutely by two categories of nonprofits:

1. Some nonprofits opt to self-insure for unemployment insurance (UI) and must reimburse the state for UI claims (under NCGS § 96-9.6) rather than paying SUTA based on experience rating. The federal CARES Act (Section 2103) provides federal funding for *half* of the UI claims of the reimbursing nonprofits. This is a start in helping to relieve the extreme financial burden of unexpected COVID-19 related UI claims by self-insured nonprofits. These self-insured organizations include healthcare providers, food banks, housing providers, and senior care facilities. Without full UI relief, many of these organizations will need to close their doors or significantly reduce services at a time when access to healthcare, food, housing and other basic needs is more essential than ever.
2. Two types of charitable nonprofits are exempt from UI laws: (1) churches and other religious nonprofits; and (2) small nonprofits with fewer than four employees. Normally, employees working for these types of nonprofits are ineligible for UI benefits if they lose their jobs. The federal CARES Act (Section 2102) provides Pandemic Unemployment Assistance (PUA) that extends special UI coverage (paid by the federal government) to workers not covered by state UI laws.

For more details about nonprofit-specific issues related to unemployment insurance (UI), see this [blog post](#).

Policy solutions:

- **It is important that the General Assembly ensures that Chapter 96 of the General Statutes allows the state of North Carolina to receive the federal funds to cover half of the costs of COVID-19 related UI claims for self-insured nonprofits. It is also important that the federal funding to cover claims by self-insured nonprofits immediately reduces these organizations' reimbursement liability, rather than being applied in future years to these nonprofits' accounts.**
- **To ensure that UI liability does not cripple the ability of self-insured nonprofits to continue to operate and provide services, the General Assembly should provide for forgiveness from North Carolina's UI Trust Fund for the other half of the amounts that these self-insured nonprofits would typically need to reimburse the state for COVID-19 related UI claims. If nonprofits are successful in advocating for the federal government to pay for the full amount of these claims in a future COVID-19 stimulus bill, there would no longer be a need for state legislative action to address this issue.**
- **If the General Assembly does not immediately provide full relief for COVID-19 claims of self-insured nonprofits, it is essential that these organizations be granted an extension of at least 12 to 18 months to reimburse the Division of Employment Security (DES) at the NC Department of Commerce for these claims and that this extension be granted without penalties or interest.**
- **DES should take steps to ensure that furloughed or laid-off workers at churches and other exempt nonprofits have a clear and expedient process for claiming their PUA benefits.**

State grants and contracts. The state is a critical partner to many nonprofit service providers. Significant disruptions in state grants and contracts could permanently shut down organizations providing health services, childcare, food assistance, senior care, and many other essential services in our state. Nonprofits may have difficulty fulfilling their deliverables on state grants and contracts due to the necessary public health response to this emergency and the impact it is will have on all parts of the economy. Through the Center's survey, a significant portion of nonprofits with state grants and contracts indicated that additional flexibility in use of these funds would be helpful in enabling them to continue operations during and after the current crisis.

These organizations include:

- Arcs (disability service providers funded through DHHS contracts);
- Boys & Girls Clubs;
- child abuse prevention organizations;
- child care service providers;
- Communities in Schools organizations;
- community action agencies;
- domestic violence organizations;
- family services organizations;

- food banks;
- homelessness/affordable housing service providers;
- legal services nonprofits;
- literacy councils;
- local arts councils and other arts organizations funded through the NC Arts Council;
- mental health service providers;
- senior service providers;
- Special Olympics; and
- wildlife conservation organizations.

Policy solutions:

- **The General Assembly should pass legislation requiring that, if a nonprofit cannot fulfill its deliverables on a state contract due to circumstances related to the COVID-19 pandemic, then the contract would be paid on the basis of intended deliverables without penalty for inability to meet deliverables. Because affected grants and contracts are based in many different state agencies, it might be appropriate to include such a provision as a temporary change to the State Budget Act.**
- **Nonprofits encourage the NC Office of State Management and Budget to consider following the lead of the federal Office of Management and Budget (OMB) in temporarily loosening grant and contract reporting, application, and renewal requirements.**

Enabling federal funds to support public services in North Carolina. The CARES Act provided a wide range of emergency federal funding to provide additional food assistance, health care, childcare, affordable housing and homelessness prevention, and support for arts and cultural organizations. It is likely that future federal stimulus legislation will provide additional support for vulnerable families and frontline service providers. Much of this funding will support the work of charitable nonprofits, either through direct grants and contracts or by providing additional resources for state programs that collaborate with nonprofits.

Policy solution:

- **It is important that the General Assembly make any necessary modifications to state laws or the state budget to ensure that this emergency funding goes to state agencies and nonprofits as rapidly as possible.**

Extending small business assistance to nonprofits. Like many small businesses, nonprofits are suffering significant financial losses due to the necessary public health response to the COVID-19 pandemic. Policymakers are rightly seeking to help mitigate the financial harm to small businesses. However, any assistance to employers through a corporate or income tax mechanism will likely leave out nonprofit employers.

Policy solution:

- **Any employer benefit enacted by the General Assembly to help employers deal with the COVID-19 crisis should be available to nonprofit employers, either by**

making the tax mechanism relate to taxes that nonprofits pay (such as payroll taxes or unrelated business income taxes) or by using a grant mechanism for nonprofits.

Access to capital for nonprofits. A significant percentage of North Carolina nonprofits are struggling to meet their basic financial obligations during the COVID-19 crisis. Like small businesses, many nonprofits are using new emergency loan programs, including the Paycheck Protection Program (PPP) and the emergency Economic Injury Disaster Loan (EIDL) program, to help cover payroll, rent, mortgage, and other basic operations during the business disruptions stemming from the pandemic.

Policy solution:

- **It is important that the General Assembly ensure that any changes to state laws made to help employers access the PPP, EIDL, or other emergency loans and grants include necessary provisions to ensure they are applicable to nonprofit employers.**

Support for charitable giving. Nonprofits have seen a decline in private giving the past two years, and widespread closures and cancellations of public events have eliminated important sources of earned income revenue (tickets for performances, registration for educational conferences, etc.) for the foreseeable future. An infusion of private giving is essential to help organizations continue to operate and provide essential services. The federal CARES Act (Section 2204) allows individual taxpayers who use the standard deduction a limited, above-the-line deduction (capped at \$300 per year) for charitable contributions made in 2020. Nonprofits appreciate this is token of support, which may help generate a few additional small contributions to nonprofits (while also providing a small measure of deferred tax relief to individuals next spring). However, an above-the-line charitable deduction with such a small cap will likely only mean a small increase in private giving and will little to relieve the current fiscal challenges facing charitable nonprofits.

Policy solutions:

- **It would be extremely helpful for the General Assembly to add a targeted, temporary giving incentive (whether a credit or a deduction) to encourage North Carolinians to support the work of charitable organizations in their community that are responding to, or suffering from, the COVID-19 pandemic. At the minimum, the General Assembly could help generate additional private charitable giving by reinstating the non-itemizer tax credit for charitable contributions (repealed in 2014 as part of state tax reform) on 2020 taxes. That repealed provision was a 7% credit (set at the then-lowest individual income tax rate) with a floor of 2% of adjusted gross income (to match the average percentage of income that American taxpayers contribute to charitable organizations each year). To reflect the current individual income tax rates, an equivalent credit today would be set at 5.25%. A temporary credit without a floor would be the most beneficial approach to help nonprofits. It could be created by adding the following new section of Article 4 of Chapter 105 of the General Statutes:**

“§ 105-153.11. Credit for charitable contributions by nonitemizers.

A taxpayer who elects the standard deduction under G.S. 105-153.5.(a)(1) is allowed as a credit against the tax imposed by this Part an amount equal to five and one-quarter percent (5.25%) of the taxpayer's charitable contributions.

A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-153.4(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.”

Language for a credit with a 2% floor, which would still be at least somewhat helpful for nonprofits could be:

“§ 105-153.11. Credit for charitable contributions by nonitemizers.

A taxpayer who elects the standard deduction under G.S. 105-153.5.(a)(1) is allowed as a credit against the tax imposed by this Part an amount equal to five and one-quarter percent (5.25%) of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under section 170 of the Code if the taxpayer had not elected the standard deduction exceed two percent (2%) of the taxpayer's adjusted gross income.

A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-153.4(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.”

Note that the Center and other nonprofits have asked Congress to expand the temporary above-the-line charitable deduction on federal taxes as part of its next stimulus bill. Congressman Mark Walker from North Carolina has introduced the CHARITY Act in the U.S. House of Representatives to do this. If this federal incentive for charitable giving is improved in the next federal stimulus bill, then a state tax change would not be necessary.

- **As part of the CARES Act, Congress helped encourage businesses to make charitable contributions by temporarily raising the limits on corporate charitable deductions from 10% of income to 25% of income in 2020. It would be helpful for North Carolina to conform to this temporary change (noting that North Carolina's tax code currently limits corporate charitable deductions to 5% of income).**

Extension of tax filing deadlines for tax-exempt organizations. The Internal Revenue Service has extended individual and corporate income tax filing deadlines from April 15 to July 15 this year. It is our understanding that the General Assembly and/or the NC Department of Revenue are making corresponding changes to state tax filing deadlines. The IRS has not yet extended filing deadlines for tax-exempt nonprofits, many of which have annual information returns (Form 990) due on May 15.

Policy solutions:

- **If the IRS extends nonprofits' filing deadlines for tax-exempt entities, it would be helpful for the NC Department of Revenue to allow for corresponding extensions of state tax returns for tax-exempt entities.**
- **If the NC Department of Revenue and/or the General Assembly provide for extensions of other state tax filing deadlines (e.g. for sales and use tax fillings), it is important to ensure that filing extensions are also applicable to tax-exempt nonprofit organizations.**

Simplifying the sales tax refund process. Most 501(c)(3) nonprofits in North Carolina pay sales tax on their purchases and are eligible for semi-annual refunds of the sales taxes they pay. In many other states, nonprofits are exempt from paying sales tax at the point of sale. The Center has heard from several organizations that the cash flow issues resulting from North Carolina's delayed form of sales tax exemption have been particularly challenging during the COVID-19 crisis as

Policy solution:

- **The General Assembly could allow for a temporary point-of-sale exemption from sales and use tax for 501(c)(3) nonprofits for the remainder of 2020 to help organizations maintain better cash flow during their current financial turmoil. The language of Senate Bill 346 could be used to make this temporary change.**

Extension of charitable solicitation filing deadlines. State law requires most charitable nonprofits to have annual charitable solicitation licenses. The NC Secretary of State administers charitable solicitation licensing. Many nonprofits will need to file for renewal of their licenses on May 15 and will need an extension due to workplace disruptions stemming from COVID-19 and social distancing practices.

Policy solution:

- **Currently, state law (NCGS § 131F-5(d)) only grants the Secretary of State the authority to grant filing extensions of up to 60 days. It would be extremely helpful for the General Assembly either: (1) to provide for automatic six-month extension of these filing deadlines; or (2) to expand the Secretary of State's authority to allow it to grant extension of up to six months.**

Ensuring that nonprofit corporations can operate effectively with social distancing. The NC Nonprofit Corporation Act (Chapter 55A of the General Statutes) enables nonprofits to elect for their boards of directors and members to take actions outside of in-person meetings, either through conference telephone calls (boards), unanimous email consent (boards), or email voting (members). Nonprofits that have not elected in their bylaws or by board resolution to allow for remote actions by boards or members may have difficulty meeting their legal obligations while practicing social distancing.

Policy solution:

- **The General Assembly should consult with attorneys who work with nonprofits – through the NC Bar Association and the North Carolina Center for Nonprofits – to make any necessary (perhaps temporary) changes to Chapter 55A of the General Statutes to facilitate social distancing by nonprofit boards and members.**

Continuing input from nonprofits. In early March, the North Carolina Center for Nonprofits initiated a survey of nonprofit leaders to learn more specifically about the needs of individual nonprofits. The Center has received about 700 responses from nonprofits in more than 70 counties. It is clear that nonprofits, particularly nonprofit service providers, are being called upon to adapt quickly to new operating requirements, educate community members, and support vulnerable populations without any new resources. Initial findings from the survey suggest several types of immediate impact that nonprofits have experienced:

- 87% of respondents have had to cancel programs or events and have lost revenue from this;
- 76% have had a disruption of services to clients;
- 74% are suffering budgetary challenges due to the economic impacts of COVID-19;
- 60% are having challenges with staff or volunteers working remotely;
- 48% are challenged by increased and sustained staff and volunteer absences; and
- 35% have experienced disruption of their supplies.

In most cases, nonprofits now have fewer resources to meet greater needs, since most organizations are suffering financial loss, significant reduction in the availability of in-person volunteers, and the reduction in staff capacity as nonprofit employees are sick, at home with children who are unexpectedly out of school or childcare, or having to work remotely to avoid in-office interactions.

Policy solutions:

- **It is essential that state government leaders consult with nonprofits as the state of North Carolina continues to respond proactively to this crisis.**
- **As the House COVID-19 Economic Support Working Group continues to learn about the impact of the pandemic on various industries in North Carolina, it would be helpful to dedicate time to understanding the impact on the nonprofit sector, which comprises about 10% of the state's private sector workforce. The North Carolina Center for Nonprofits is available to share information about the impact of COVID-19 on North Carolina's nonprofit sector.**

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