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(PRE-FILED)

By: Delegate Taylor and Chairman, Commerce and Government Matters Committee, and Delegates Dewberry, Hurson, Arnick, Busch, Harrison, Hixson, Kopp, Menes, Owings, Rawlings, and Vallario Vallario, Dypski, Bobo, Snodgrass, Getty, DeCarlo, Brinkley, Wood, Benson, Rudolph, and Pitkin

Requested: July 31, 1996

Introduced and read first time: January 8, 1997

Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 19, 1997

CHAPTER ____

1 AN ACT concerning

2 Election Laws - Reporting of Contributions by Persons Doing Business with State or
3 Local Government

4 FOR the purpose of altering the requirements for reporting certain campaign
 5 contributions made by certain persons doing business with State or local
 6 government; transferring from the Secretary of State to the State Administrative
 7 Board of Election Laws the authority to collect and monitor campaign contribution
 8 data reported by persons doing business with State or local government; requiring
 9 quarterly reports under specified circumstances; repealing a certain obsolete
 10 provision; providing notice to contractors of the reporting requirements; and
 11 generally relating to the reporting of certain campaign contributions made by
 12 certain persons doing business with State or local government.

13 BY repealing and reenacting, with amendments,
 14 Article 33 - Election Code
 15 Section 30-1, 30-2, 30-3, and 30-4
 16 Annotated Code of Maryland
 17 (1993 Replacement Volume and 1996 Supplement)

18 BY repealing and reenacting, with amendments,
 19 Article - State Finance and Procurement
 20 Section 13-218(a)
 21 Annotated Code of Maryland

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1 (1995 Replacement Volume and 1996 Supplement)

2 BY adding to

3 Article - State Finance and Procurement

4 Section 17-401 and 17-402 to be under the new subtitle "Subtitle 4. Notice of

5 Political Contributions"

6 Annotated Code of Maryland

7 (1995 Replacement Volume and 1996 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article 33 - Election Code**

11 30-1.

12 (a) In this subtitle, the following words have the meanings indicated.

13 (b) "Business" means any one or combination of sales, purchases, leases, or
14 contracts, involving consideration of [\$10,000] \$100,000 or more on a cumulative basis
15 entered into during the twelve months immediately preceding the end of the reporting
16 period for which the statement required under this subtitle is filed. If an agreement calls
17 for the consideration to be paid over a period extending beyond one reporting period, the
18 total ascertainable consideration to be paid under the agreement shall be included as
19 business done during the period in which the agreement was entered into. Business of less
20 than [\$10,000] \$100,000 with an agency or governmental entity shall be reported if the
21 aggregate business done with all agencies and governmental entities amounts to more
22 than [\$10,000] \$100,000. Business does not include salaries paid by the State, a county, an
23 incorporated municipality, or other political subdivision of the State.

24 (c) "Business entity" includes a firm, corporation, trust, unincorporated
25 association, or other organization, whether or not conducted for profit.

26 (d) "Candidate" includes an incumbent office holder and a political committee for
27 a candidate.

28 (e) "Contribution" means any gift, donation, or payment of money in excess of
29 [\$100] \$500. It includes the purchase of a ticket or tickets, or payment for admission to a
30 dinner, barbecue, fish fry, or other like event. It does not include a bona fide gift by a
31 spouse or relative within the third degree of consanguinity, or to honorary memberships
32 in a social, service, or fraternal organization presented as a courtesy by the organization.

33 (f) "County" includes the City of Baltimore.

34 (g) "Person" includes an individual and a business entity.

35 (h) "State", "county", and "incorporated municipality" include agencies of them.

36 (i) "Subsidiary" means a firm or corporation of which a parent firm or
37 corporation owns or controls 30% or more of the equity.

38 30-2.

1 (a) The statement required by this subtitle shall be filed [on or before February
2 1 of each year] WITH THE STATE ADMINISTRATIVE BOARD OF ELECTION LAWS:

3 (1) PRIOR TO THE COMPLETION OF ANY SALE, PURCHASE, LEASE, OR
4 CONTRACT BY THE STATE, A COUNTY, OR AN INCORPORATED MUNICIPALITY OF
5 THE STATE and shall cover the reporting period which consists of the preceding TWO
6 calendar [year] YEARS; AND

7 (2) IF THE CONTRIBUTION IS MADE AFTER THE COMPLETION OF A
8 SALE, PURCHASE, LEASE, OR CONTRACT SUBJECT TO THIS SUBTITLE, THEN,
9 QUARTERLY, THROUGHOUT THE TERM OF THE CONTRACT, ON:

10 (I) FEBRUARY 5, TO COVER THE QUARTER ENDING JANUARY 31;

11 (II) MAY 5, TO COVER THE QUARTER ENDING APRIL 30;

12 (III) AUGUST 5, TO COVER THE QUARTER ENDING JULY 31; AND

13 (IV) NOVEMBER 5, TO COVER THE QUARTER ENDING OCTOBER 31.

14 (b) Every person who has done business with the State, or with a county,
15 incorporated municipality, or other political subdivision of the State during a reporting
16 period SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION shall file the statement
17 required by this subtitle if during the reporting period [or during the preceding reporting
18 period] he made or caused to be made a contribution to a candidate for an elective office
19 of the State or for an elective office of a county or incorporated municipality of the State
20 in any primary or general election.

21 (c) The statement shall be under oath and shall contain:

22 (1) The names of all candidates to whom a contribution was made or caused
23 to be made during the reporting period and, if not reported previously, during the
24 preceding reporting period and the office for which the candidate sought election;

25 (2) The amount of the aggregate contributions made to each candidate;

26 (3) The name of each agency of the State, a county, incorporated
27 municipality, or other political subdivision with which the person did business during the
28 reporting period. However, this information may be omitted upon the written approval of
29 the Attorney General. The Attorney General may grant approval if he finds that it would
30 be unduly burdensome to require this information, that the public interest would not be
31 substantially impaired by its omission, and that the person submitting the statement
32 stipulates that he has done the requisite business in the amount of [\$10,000] \$100,000 or
33 more during the period in question;

34 (4) The nature and amount of business done with each agency. However,
35 information concerning the amount of business done with each agency may be omitted
36 upon the written approval of the Attorney General. The Attorney General may grant
37 approval if he finds that it would be unduly burdensome to require this information, that
38 the public interest would not be substantially impaired by its omission, and that the
39 person submitting the statement stipulates that he has done the requisite business in the
40 amount of [\$10,000] \$100,000 or more during the period in question; and

1 (5) If the business was done or the contribution was made by another person
2 and is attributed to the person filing the statement under § 30-3, the name of the person
3 who did the business or made the contribution, and the relationship of that person to the
4 person filing the statement.

5 (d) (1) The statement shall be filed with the [Secretary of State,] STATE
6 ADMINISTRATIVE BOARD OF ELECTION LAWS and shall be retained as a public record
7 for at least two years from the date of its receipt.

8 (2) The [Secretary of State] STATE ADMINISTRATIVE BOARD OF
9 ELECTION LAWS shall make the statements available for examination and copying by the
10 public during normal office hours, subject to such reasonable fees and administrative
11 procedures as [he] IT may establish from time to time.

12 (e) The [Secretary of State] STATE ADMINISTRATIVE BOARD OF ELECTION
13 LAWS shall prepare and make available forms for the statements required by this subtitle.

14 30-3.

15 (a) Except as provided in subsection (e) of this section, each officer, director, and
16 partner of a business entity who makes or causes to be made a contribution which, if
17 made by the business entity, would have to be disclosed under this subtitle, shall report
18 the contribution to the chief executive officer of the business entity so that it may be
19 included in the statement filed by the business entity.

20 (b) Each employee, agent, or other person who makes or causes to be made a
21 contribution at the suggestion or direction of a business entity shall report the
22 contribution to the chief executive officer of the business entity so that it may be included
23 in the statement filed by the business entity.

24 (c) [Except] FOR THE PURPOSES OF THIS SUBTITLE, AND EXCEPT as provided
25 in subsection (e) of this section, a contribution made by an officer, director, or partner of
26 a business entity, and a contribution made by an employee, agent, or other person at the
27 suggestion or direction of a business entity, shall [for purposes of this subtitle] be
28 attributed to the business entity and shall be included in the statement filed by the
29 business entity as though made directly by it.

30 (d) Business done with the State, or a county, incorporated municipality, or other
31 political subdivision of the State by a subsidiary business entity shall be attributed to the
32 parent and shall be included in the statement filed by the parent. Contributions made by,
33 caused to be made by, or attributed to a subsidiary shall for purposes of this subtitle be
34 attributed to the parent and shall be included in the statement filed by the parent.

35 (e) Unless the contribution is made on the recommendation of the not-for-profit
36 organization or unless the individual is paid by the organization:

37 (1) An individual who serves as a trustee or member of the board of
38 directors of a not-for-profit organization is not required to report a contribution to the
39 chief executive officer of the organization as otherwise required under this subtitle; and

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1 (2) A contribution made by an individual who serves as a trustee or member
2 of the board of directors of a not-for-profit organization is not, for purposes of this
3 subtitle:

4 (i) Attributable to the organization; or

5 (ii) Required to be included in the statement of contributions filed by
6 the organization under this subtitle.

7 30-4.

8 (a) Any person who knowingly and willfully fails to comply with the requirements
9 of this subtitle is guilty of a misdemeanor, and, upon conviction, is subject to a fine of not
10 more than \$1,000 or imprisonment for not more than one year, or both. If the person is a
11 business entity and not a natural person, each officer and partner of the business entity
12 who knowingly authorized or participated in the violation is guilty of a misdemeanor and,
13 upon conviction, is subject to the same penalties as the business entity.

14 (b) This subtitle shall be liberally construed to require full disclosure.

15 [(c) The first report under this subtitle shall be due on or before September 1,
16 1975, for the reporting period of twelve months ending July 31, 1975.]

17 **Article - State Finance and Procurement**

18 13-218.

19 (a) Each procurement contract shall include clauses covering:

20 (1) termination for default;

21 (2) termination wholly or partly by the State for its convenience if the head
22 of the primary procurement unit determines that termination is appropriate;

23 (3) variations that occur between estimated and actual quantities of work in
24 a procurement contract;

25 (4) liquidated damages, as appropriate;

26 (5) specified excuses for nonperformance; [and]

27 (6) except for real property leases, the unilateral right of the State to order
28 in writing:

29 (i) changes in the work, if the changes are within the scope of the
30 procurement contract; and

31 (ii) a temporary stop or delay in performance; AND

32 (7) THE OBLIGATION OF THE CONTRACTOR TO COMPLY WITH THE
33 POLITICAL CONTRIBUTION REPORTING REQUIREMENTS UNDER SUBTITLE 30 OF
34 ARTICLE 33 OF THE CODE, TO WHICH THE CONTRACTOR MAY BE SUBJECT AS
35 REQUIRED UNDER § 17-402 OF THIS ARTICLE.

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1 SUBTITLE 4. NOTICE OF POLITICAL CONTRIBUTIONS.

2 17-401.

3 IN THIS SUBTITLE, "CONTRIBUTION" HAS THE MEANING STATED IN ARTICLE 33,
4 § 1 OF THE CODE.

5 17-402.

6 EACH STATE OR LOCAL GOVERNMENT PROCUREMENT CONTRACT SHALL
7 INCLUDE A CLAUSE COVERING THE OBLIGATION OF A CONTRACTOR TO COMPLY
8 WITH THE POLITICAL CONTRIBUTION REPORTING REQUIREMENTS UNDER
9 SUBTITLE 30 OF ARTICLE 33 OF THE CODE TO WHICH THE CONTRACTOR MAY BE
10 SUBJECT.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1997.