



HB 1210
Corporate Diversity – Board, Executive Leadership, and Mission
Finance Committee
Position: Unfavorable

Maryland AGC, the Maryland Chapter of the Associated General Contractors of America, provides professional education, business development, and advocacy for commercial construction companies and vendors, both open shop and union. AGC of America is the nation’s largest and oldest trade association for the construction industry. AGC of America represents more than 26,000 firms, including over 6,500 of America’s leading general contractors, and over 9,000 specialty-contracting firms, all through a nationwide network of chapters. Maryland AGC respectfully urges HB 1210 be given an unfavorable report.

HB 1210 is intended to increase the representation of “underrepresented communities” on the boards and in the executive cadre of private sector companies, both for profit and not-for-profit. It does so by conditioning the award of grants, tax credits, or State contracts valued at \$1,000,000 or more on the private entity’s having persons from underrepresented communities on its board or in its executive cadre or having support for underrepresented communities in its mission. It further requires these entities to report the racial make-up of their boards and executive cadres as part of their annual Form 1 filings with the Department of Assessments and Taxation in a form to be developed by the Department of Commerce and the Office of Small, Minority, And Women Business Affairs. This data would be public.

HB 1210 would represent a dramatic intrusion by the State into a private entity’s ability to determine its board and management structure and the purpose for which the entity was created. Owners of for-profit businesses put their own capital, and, in many cases, all of their personal assets and that of their spouses’ at risk to establish a business. It is simply inappropriate in a free market economy for the State to seek to coerce these private owners to restructure their managements or their missions to suit what the State deems to be acceptable. HB 1210 does not provide an incentive as some other bills before the General Assembly would do – it imposes a mandate. Restructure as the State sees fit or be barred from any meaningful opportunity to do business with or receive any benefit from the State. This would be an egregious overstep by the State, bad public policy, and should be rejected.

Moreover, HB 1210 runs roughshod over small businesses and especially family-owned businesses. Many firms in the construction industry or industry in general are owned and operated by family members. The greatest part of America’s wealth lies with family-owned businesses. According to the US Census Bureau, family firms comprise 90% of all business enterprises in North America.¹ HB 1210 would require family-owned and operated firms to add non-family member representatives of underrepresented communities to boards and executive cadres, totally disrupting the intrinsic structure and purposes for which the family owners created their business in the first place. If the committee is intent on moving forward with the bill, the bill should be amended at a minimum to remove family-owned corporations from its ambit.

Finally, the term the “support of underrepresented communities in the entity’s mission” presupposes that every business has a defined “mission”. While it may be business school orthodoxy to create a mission statement, values statement, etc., the overwhelming majority of small businesses don’t bother with such niceties. HB 1210 may cause businesses to develop boilerplate mission statements that include some reference to serving underrepresented communities, but that alone would be of questionable value and would do nothing to ensure that the execution of the mission – not its mere statement - serves underrepresented communities.

¹ Inc. Magazine, Family-Owned Businesses, <https://www.inc.com/encyclopedia/family-owned-businesses.html>, accessed 2/22/2021 1:00 p.m.

For HB 1210 to be effective, the State would have to monitor all affected entities' business activities to ensure there is congruence between the mission statement and the business activity regarding underrepresented communities. This is contemplated in the bill in §19-106(D). As the Fiscal Note points out on page 6, such an effort would require significant expense in every agency that has not been included in the calculation of the cost to the State. The Fiscal Note also points out that there could be as many as 430,000 businesses involved. Note that California, which has enacted legislation similar to HB 1210, deals with only 700 publicly traded companies headquartered in the state.

For the foregoing reasons, Maryland AGC respectfully urges that HB 1210 be given an unfavorable report.

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