

HB 1343 to EHEA 4-5 UNF - Concerns.pdf

Uploaded by: Henry Bogdan

Position: UNF

April 5, 2022

Testimony on House Bill 1343
Major State Contractors - Donations to Advocacy Organizations – Disclosure
Senate Education, Health, and Environmental Affairs Committee

Position: Unfavorable

Maryland Nonprofits is a statewide association of more than 1300 nonprofit organizations and institutions. We understand the purpose of House Bill 1343, but as passed by the House lacks clarity in many important provisions making the scope and effect unclear.

Even though charitable organizations are clearly allowed by the IRS to lobby within limits, and that educating the public about how policies affect the communities they serve is important to their missions, many nonprofit boards are still hesitant to become involved in advocacy. There are still many funders who shy away from advocacy groups. Anything likely to dissuade nonprofits' boards of directors, donors, or public foundations from their willingness to support advocacy efforts must be avoided. Any lack of clarity in how a law may affect their organization or its donors can have a "chilling effect".

We have been discussing our concerns with the sponsor's staff and appreciate that the proposed amendments we have seen do make improvements. But the bill still lacks clarity regarding several important provisions, and it appears to affect and may deter nonprofits from doing advocacy with public messaging on policy issues or legislation where the decisions may generate procurement contracts.

Critical terms in the bill, including "Donation" and "disbursement" aren't defined and have raised questions such whether 'disbursement' includes payments for costs such as staff salaries or other internal costs of generating public communications in-house or does it only refer to payments to third parties such as public relations or media services.

Covered disbursements, required to be reported, are donations "made by a major state contractor directly or indirectly (in the reporting period that they are made) to an advocacy organization that makes disbursements for public communications relating to a major state project in which the major state contractor has a financial interest."

The definition of "covered disbursement" encompasses several elements that may not occur in any particular order in real life, and it includes interests or actions that may not exist or have occurred until well after a donation is made, and in fact may not be certain to ever occur. This can confuse the donor/contractor as to when the requirement to file really occurs.

It includes provisions requiring certain state contractors to disclose contributions to ‘advocacy organizations’ that “make disbursements” for “public messaging’ and provides for enforcement purposes, the authority to audit the records (presumably including of donors and communications) of advocacy organizations that do public messaging “relating to a major state project”. “Major State Project” is defined as a procurement contract with a cumulative value of \$1 million or more.

Critically, what messaging would be considered “relating to” that procurement is not clear. We think the intention is include messaging or lobbying regarding a bill that is related to that procurement – such as being the cause of that procurement.

We appreciate that the amendments would remove the treatment of required reports as public records. But on its face the bill still leaves an advocacy organization in a position where it could unknowingly make a donor subject to a civil penalty. There is no requirement for any causal connection between a donation and communications by the advocacy organization, or that the advocacy organization be aware of a particular possible procurement contract.

AHA Oppose HB 1343 Major State Contractors Donatio

Uploaded by: Laura Hale

Position: UNF



April 5th, 2022

Testimony of Laura Hale
American Heart Association

Oppose HB 1343 Major State Contractors - Donations to Advocacy Organizations - Disclosure

Dear Chair Pinsky, Vice Chair Kagan and Members of the Education, Health, and Environmental Affairs Committee,

The American Heart Association writes in concern and opposition to HB 1343 Major State Contractors - Donations to Advocacy Organizations - Disclosure.

Although the intent of this bill is important, we are concerned about the unintended consequences of the legislation as written and how it may affect both advocacy and donations for 501(c)3 public charities. The bill's definition of an "advocacy organization" is not explicitly limited to 501c(4) organizations, and it could be read in a way that includes all charitable organizations that engage in even occasional commentary on issues of importance to their communities.

We fear that this would have a chilling effect for those 501(c)3 organizations that engage in advocacy, and for our donors. This bill would create a compliance nightmare for organizations that rely on mid-size donations. People donating \$1,000—the minimum donation in the House-amended language—in support of an important cause could find themselves unaware that they need to file paperwork with the state. Following such a donation, the organization could inadvertently create a violation for our donors by commenting on issues of public concern.

Due to the many uncertainties around the legislation, the American Heart Association urges an unfavorable report on HB 1343.

2022 The Coordinating Center HB 1343 Senate Side.p

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Position: INFO



THE COORDINATING CENTER
INSPIRED SOLUTIONS

Committee: Senate Education, Health, and Environmental Affairs Committee

Bill Number: House Bill 1343 – Major State Contractors - Donations to Advocacy Organizations - Disclosure

Hearing Date: April 4, 2022

Position: Letter of Information

The Coordinating Center would like to raise questions about *House Bill 1343 – Major State Contractors - Donations to Advocacy Organizations - Disclosure*. The legislation seeks to improve transparency related to advocacy by state contractors but we feel that there are many questions around this bill will be implemented.

We are particularly confused about what it means for a communication to be “related to” a major state project. For example, if a nonprofit received a \$1 million contact to provide a service to Marylanders, it is unclear if it would implicate the bill’s reporting requirements if the nonprofit hired a contractor to make the public aware of the services provided by the nonprofit. Additionally, it is unclear how HB 1343 would be implicated if a major state contractor hired a company to do public relations work but the company was engaging in advocacy related to a major state project on behalf of another client.

Although we support to goals of increased transparency, we believe that more time is needed to ensure that legislation is properly tailored to address the need for transparency without having adverse impacts. If we can provide any additional information that is helpful, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.