

HB1343 Sponsor Testimony .pdf

Uploaded by: Eric Luedtke

Position: FAV

ERIC LUEDTKE
Legislative District 14
Montgomery County

MAJORITY LEADER

Ways and Means Committee
Chair, Revenues Subcommittee



The Maryland House of Delegates
6 Bladen Street, Room 350
Annapolis, Maryland 21401
301-858-3110 • 410-841-3110
800-492-7122 Ext. 3110
Fax 301-858-3053 • 410-841-3053
Eric.Luedtke@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

SPONSOR TESTIMONY

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

Chairman Barve, Vice Chair Stein, and Members of the Environment and Transportation Committee,

Existing law requires contributions to political campaigns to be reported on a regular basis and made available to the public. We require this information to be made available because the public has a right to know who is influencing our elections by providing money to campaigns. Given the impact that money can have on a campaign and the unequal ability of residents to make contributions, this transparency is widely considered to be essential information for voters to access. Reporting this information serves only to educate the public and not to block anyone from making contributions to their preferred campaign.

Despite wide recognition of the importance of tracking money in politics, major state contractors are not required to report their contributions to advocacy organizations which lobby the public in many cases. This denies public transparency and accountability for major contractors who fund campaigns in favor of new taxpayer-funded state projects that they have a significant financial stake in. And it further creates an opportunity for a practice known as “astroturfing”. This is when an advocacy organization masks the funding of public campaigning to create the appearance of a grassroots movement when, in truth, support comes from a narrow group of special interests.

House Bill 1343 seeks to address this problem by requiring major state contractors to disclose contributions to advocacy organizations who could be advocating for new state projects. This legislation would require the disclosures to be made to the State Board of Elections who already receives other types of contribution disclosures. The bill also allows the State Board of Elections to conduct routine audits of advocacy organizations who promote major state projects to ensure that the disclosures are being currently filed.

This legislation seeks to ensure that the public can know who is behind efforts to lobby their community by requiring contribution disclosures for a particular type of donor. Given the state funds that these donors receive through contracts, the state and the public have a compelling reason for interest in these disclosures. Importantly, the bill creates this transparency without infringing on the associational rights of the advocacy organizations and places the requirement to disclose on the major contractors not the advocacy group.

I thank the Committee for considering this proposal and respectfully request a favorable report,

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Luedtke".

Delegate Eric Luedtke

Proposed Amend Sponsor HB1343

Uploaded by: Eric Luedtke

Position: FAV



HB1343/743925/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

10 MAR 22
14:11:14

BY: Delegate Luedtke

(To be offered in the Environment and Transportation Committee)

AMENDMENTS TO HOUSE BILL 1343

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in their entirety lines 13 through 17, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 11–203(h)

Annotated Code of Maryland

(2021 Replacement Volume)

BY adding to

Article – State Finance and Procurement

Section 12–601 through 12–604 to be under the new subtitle “Subtitle 6.

Disclosure of Donations to Advocacy Organizations”

Annotated Code of Maryland

(2021 Replacement Volume)”.

AMENDMENT NO. 2

On page 1, in line 20, strike “**General Provisions**” and substitute “**State Finance and Procurement**”; strike line 21 in its entirety and substitute:

“11–203.

(h) (1) Except as provided in paragraph (2) of this subsection, this division does not apply to a public–private partnership under Title 10A of this article.

(2) To the extent otherwise required by law, the following provisions of this division apply to a public–private partnership under Title 10A of this article:

- (i) § 11–205 of this subtitle (“Collusion”);
- (ii) § 11–205.1 of this subtitle (“Falsification, concealment, etc. of material facts”);
- (iii) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);
- (iv) **TITLE 12, SUBTITLE 6 OF THIS ARTICLE (“DISCLOSURE OF DONATIONS TO ADVOCACY ORGANIZATIONS”);**
- (v) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
- [(v)] **(VI)** Title 14, Subtitle 3 of this article (“Minority Business Participation”);
- [(vi)] **(VII)** Title 17, Subtitle 1 of this article (“Security for Construction Contracts”);
- [(vii)] **(VIII)** Title 17, Subtitle 2 of this article (“Prevailing Wage Rates – Public Work Contracts”); and
- [(viii)] **(IX)** Title 18 of this article (“Living Wage”).

SUBTITLE 6. DISCLOSURE OF DONATIONS TO ADVOCACY ORGANIZATIONS.

12–601.”;

in line 22, strike “(1)”; and in the same line, strike “SECTION” and substitute “**SUBTITLE**”.

On page 2, in lines 1, 5, 10, 11, 13, 15, 16, 18, 20, 21, 23, 25, 27, and 29, strike “(2)”, “(3)”, “(4)”, “(I)”, “(II)”, “(5)”, “(I)”, “(II)”, “(6)”, “(I)”, “(II)”, “(7)”, “(8)”, and “(9)”,

respectively, and substitute “**(B)**”, “**(C)**”, “**(D)**”, “**(1)**”, “**(2)**”, “**(E)**”, “**(1)**”, “**(2)**”, “**(F)**”, “**(1)**”, “**(2)**”, “**(G)**”, “**(H)**”, and “**(I)**”, respectively.

On page 2 in lines 26 and 30, and on page 3 in lines 2 and 3, in each instance, strike “**THE STATE FINANCE AND PROCUREMENT ARTICLE**” and substitute “**THIS ARTICLE**”.

On page 3, in lines 1 and 2, strike “**(10)**” and “**(11)**”, respectively, and substitute “**(J)**” and “**(K)**”, respectively; after line 3, insert:

“**12-602.**”;

in lines 4, 7, 9, 14, and 27, strike “**(B)**”, “**(C)**”, “**(D)**”, “**(E)**”, and “**(F)**”, respectively, and substitute “**(A)**”, “**(B)**”, “**(C)**”, “**(D)**”, and “**(E)**”, respectively.

On page 4, in lines 22 and 30, strike “**(G)**” and “**(H)**”, respectively, and substitute “**(F)**” and “**(G)**”, respectively; in line 28, strike “**SECTION**” and substitute “**SUBTITLE**”; in the same line, after “**THE**” insert “**STATE**”; and after line 32, insert:

“**12-603.**”.

On page 5, in lines 1 and 8, strike “**(I)**” and “**(J)**”, respectively, and substitute “**(A)**” and “**(B)**”, respectively; in lines 2 and 30, in each instance, strike “**THIS SECTION**” and substitute “**§ 12-602 OF THIS SUBTITLE**”; in lines 10, 17, 20, and 25, strike “**SECTION**” and substitute “**SUBTITLE**”; and after line 18, insert:

“**12-604.**”;

and in lines 19 and 28, strike “**(K)**” and “**(L)**”, respectively, and substitute “**(A)**” and “**(B)**”, respectively.

On page 6, in lines 1 and 4, strike “(M)” and “(N)”, respectively, and substitute “(C)” and “(D)”, respectively; in line 2, after “UNDER” insert “§ 12-602 OF”; in the same line, strike “SECTION” and substitute “SUBTITLE”; in lines 6, 8, 10, and 12, in each instance, strike “SECTION” and substitute “SUBTITLE”; in line 8, strike “SUBSECTION (E)” and substitute “§ 12-602(D)”; in line 10, strike “SUBSECTION (I)” and substitute “§ 12-603(A)”; in line 12, strike “SUBSECTION (J)” and substitute “§ 12-603(B)”; and in line 13, strike “SUBSECTION” and substitute “SECTION”.

HB1343_MarylandAGC_McCulloch_UNF.pdf

Uploaded by: Champe McCulloch

Position: UNF



HB 1343

**Major State Contractors – Donations to Advocacy Organizations - Disclosure
Environment and Transportation & Health and Government Operations
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 opposes HB 1343 and respectfully urges HB 1343 be given an unfavorable report.

HB 1343 would require contractors to file with the State Board of Elections a statement disclosing whether the contractor had made any contributions to a 501(C)(4) organization that makes disbursements for public communications relating to a State project valued at \$1,000,000 or more and in which the contractor has a financial interest. There are criminal and civil penalties on the contractor and its officers, directors, and partners for failures to disclose.

HB 1343 runs counter to the freedom of speech guaranteed by the First Amendment to the U.S. Constitution and Article 40 of the Declaration of Rights of the Maryland Constitution. It brands as suspect the perfectly legitimate exercise by a contractor of its right to support any advocacy group that it chooses. Without saying so, HB 1343 is intended to, and would in fact, chill speech by a state contractor. More specifically, HB 1343 seeks indirectly to prohibit a contractor on a State project from making contributions to an advocacy group that supports the aims of the contractor with respect to that project. In effect, HB 1343 would require contractors to register with the State Board of Elections if they wish to exercise their right of free speech. As the Supreme Court decided in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), contributions are equivalent to speech. The requirement to report the exercise of free speech to a government agency is abhorrent and completely at odds with fundamental principles of our democracy.

Moreover, the logic of HB 1343 is spurious. A "major contractor" is bound by the terms of whatever agreement it signs with the State. The fact that groups favor or oppose the project or its terms notwithstanding, the contractor is bound by the procurement contract it signs. Moreover, why is it that only contractors are required to make the covered disbursements disclosure? Every other entity or person imaginable is free from the mandate to register its speech. In particular, anyone else who contributes to the very same advocacy organization as does the contractor and its officers, etc., is free to do so without registering. Passage of HB 1343 would signal inappropriately that the General Assembly wishes to chill speech by particular persons to which the State may be opposed or finds offensive.

Accordingly, for the reasons set forth above, Maryland AGC respectfully urges HB 1343 be given an unfavorable report.

Champe C. McCulloch
McCulloch Government Relations, Inc.
Lobbyist for Maryland AGC
410-703-1378

HB 1343_MTBMA_LOI.pdf

Uploaded by: Michael Sakata

Position: INFO



March 10, 2022

Delegate Kumar P. Barve, Chair
House Environment and Transportation Committee
Room 251, House Office Building
Annapolis, MD 21401

RE: HB 1343 – LETTER OF INQUIRY – Major State Contractors – Donations to Advocacy Organizations – Disclosure

Dear Chairman Barve and Members of the House Environment and Transportation Committee:

The Maryland Transportation Builders and Materials Association (“MTBMA”) has been and continues to serve as the voice for Maryland’s construction transportation industry since 1932. Our association is comprised of 200 members. MTBMA encourages, develops, and protects the prestige of the transportation construction and materials industry in Maryland by establishing and maintaining respected relationships with federal, state, and local public officials. We proactively work with regulatory agencies and governing bodies to represent the interests of the transportation industry and advocate for adequate state and federal funding for Maryland’s multimodal transportation system.

House Bill 1343 would require major state contractors to disclose to the State Board of Elections any direct or indirect donations to an advocacy organization that makes disbursements for public communications relating to major state projects in which the contractor has a financial interest, with various penalty options established for non-compliance.

MTBMA takes no position on the substantive provisions of House Bill 1343; instead, we submit this letter of inquiry to request clarification on the exactly what advocacy organizations this bill is intended to cover. As drafted, we believe the bill does not make it clear if the reporting requirement applies to all organizations that provide public communications work for a major state contractor, or if there are exceptions. For example, does the “disbursement” language mean that an advocacy group that performs communications work pro bono does not need to report? What about a lobbying firm that provides services to the major state contractor—do communications made to government officials as part of their representation also need to be reported under these provisions?

We appreciate you taking the time to address this important issue, and we thank you for considering our questions about the parties that would be impacted by House Bill 1343.

Thank you,

A handwritten signature in blue ink, appearing to read "Michael Sakata", is written over a faint, light blue circular watermark or stamp. The signature is fluid and cursive.

Michael Sakata
President and CEO
Maryland Transportation Builders and Materials Association

HB 1343_MAA_LOI.pdf

Uploaded by: Rachel Clark

Position: INFO

CHAIRMAN:
Rob Scrivener
VICE CHAIRMAN
Brian Russell

MARYLAND ASPHALT ASSOCIATION



SECRETARY:
David Slaughter
TREASURER:
Jeff Graf
PRESIDENT:
G. Marshall Klinefelter

March 10, 2022

Delegate Kumar P. Barve, Chair
House Environment and Transportation Committee
Room 251, House Office Building
Annapolis, MD 21401

RE: HB 1343 – LETTER OF INQUIRY – Major State Contractors – Donations to Advocacy Organizations – Disclosure

Dear Chairman Barve and Members of the House Environment and Transportation Committee:

The Maryland Asphalt Association (MAA) is comprised of 18 producer members representing more than 47 production facilities, 24 contractor members, 24 consulting engineer firms and 41 other associate members. We proactively work with regulatory agencies to represent the interests of the asphalt industry both in the writing and interpretation of state and federal regulations that may affect our members. We also advocate for adequate state and federal funding for Maryland's multimodal transportation system.

House Bill 1343 would require major state contractors to disclose to the State Board of Elections any direct or indirect donations to an advocacy organization that makes disbursements for public communications relating to major state projects in which the contractor has a financial interest, with various penalty options established for non-compliance.

MAA takes no position on the substantive provisions of House Bill 1343; instead, we submit this letter of inquiry to request clarification on the exactly what advocacy organizations this bill is intended to cover. As drafted, we believe the bill does not make it clear if the reporting requirement applies to all organizations that provide public communications work for a major state contractor, or if there are exceptions. For example, does the "disbursement" language mean that an advocacy group that performs communications work pro bono does not need to report? What about a lobbying firm that provides services to the major state contractor—do communications made to government officials as part of their representation also need to be reported under these provisions?

We appreciate you taking the time to address this important issue, and we thank you for considering our questions about the parties that would be impacted by House Bill 1343.

Thank you,

Marshall Klinefelter
President
Maryland Asphalt Association