



**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.

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