

HOUSE BILL 1343

G2, P2, G1

2lr3062

By: ~~Delegate Luedtke~~ Delegates Luedtke, Amprey, Boyce, Foley, Fraser-Hidalgo, Holmes, Jalisi, Lehman, Love, Prettyman, Ruth, Stein, Stewart, Terrasa, and Wells

Introduced and read first time: February 11, 2022

Assigned to: Environment and Transportation and Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2022

CHAPTER _____

1 AN ACT concerning

2 **Major State Contractors – Donations to Advocacy Organizations – Disclosure**

3 FOR the purpose of requiring a major State contractor to file a certain statement with the
4 State Board of Elections if the major State contractor made a certain disbursement
5 during the reporting period to a certain advocacy organization that makes
6 disbursements for public communications relating to a major State project in which
7 the major State contractor has a financial interest; requiring that certain covered
8 disbursements be attributed to a major State contractor; requiring a major State
9 contractor to maintain certain records; authorizing the State Board to audit the
10 records of an advocacy organization to ensure compliance with this Act; and
11 generally relating to disclosure of donations to advocacy organizations by major
12 State contractors.

13 ~~BY adding to~~
14 ~~Article – General Provisions~~
15 ~~Section 5–717~~
16 ~~Annotated Code of Maryland~~
17 ~~(2019 Replacement Volume and 2021 Supplement)~~

18 BY repealing and reenacting, with amendments,
19 Article – State Finance and Procurement
20 Section 11–203(h)
21 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(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)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – ~~General Provisions~~ State Finance and Procurement

~~5–717.~~

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

1 [(viii)] **(IX)** Title 18 of this article (“Living Wage”).

2 **SUBTITLE 6. DISCLOSURE OF DONATIONS TO ADVOCACY ORGANIZATIONS.**

3 **12-601.**

4 **(A) ~~(1)~~ IN THIS ~~SECTION~~ SUBTITLE THE FOLLOWING WORDS HAVE THE**
5 **MEANINGS INDICATED.**

6 **~~(2)~~ (B) “ADVOCACY ORGANIZATION” MEANS A PERSON, INCLUDING**
7 **AN ENTITY ORGANIZED UNDER § 501(C)(4) OF THE INTERNAL REVENUE CODE, THAT**
8 **MAKES DISBURSEMENTS FOR PUBLIC COMMUNICATIONS RELATING TO A MAJOR**
9 **STATE PROJECT.**

10 **~~(3)~~ (C) “COVERED DISBURSEMENT” MEANS A DONATION BY A**
11 **MAJOR STATE CONTRACTOR, DIRECTLY OR INDIRECTLY, TO AN ADVOCACY**
12 **ORGANIZATION THAT MAKES DISBURSEMENTS FOR PUBLIC COMMUNICATIONS**
13 **RELATING TO A MAJOR STATE PROJECT IN WHICH THE MAJOR STATE CONTRACTOR**
14 **HAS A FINANCIAL INTEREST.**

15 **~~(4)~~ (D) “FINANCIAL INTEREST” MEANS AN INTEREST AS:**

16 **~~(H)~~ (1) A PARTY TO A PROCUREMENT CONTRACT OR**
17 **PUBLIC-PRIVATE PARTNERSHIP AGREEMENT; OR**

18 **~~(H)~~ (2) A BIDDER OR AN OFFEROR FOR A PROCUREMENT**
19 **CONTRACT OR PUBLIC-PRIVATE PARTNERSHIP AGREEMENT.**

20 **~~(5)~~ (E) “MAJOR STATE CONTRACTOR” MEANS A PERSON WHO:**

21 **~~(H)~~ (1) ENTERS INTO A CONTRACT OR AN AGREEMENT TO**
22 **COMPLETE A MAJOR STATE PROJECT; OR**

23 **~~(H)~~ (2) MAKES A BID OR AN OFFER FOR A CONTRACT OR AN**
24 **AGREEMENT TO COMPLETE A MAJOR STATE PROJECT.**

25 **~~(6)~~ (F) “MAJOR STATE PROJECT” MEANS:**

26 **~~(H)~~ (1) A SINGLE PROCUREMENT CONTRACT, INCLUDING ALL**
27 **OPTIONS, RENEWALS, AND OTHER EXTENSIONS, WITH A SINGLE UNIT INVOLVING**
28 **CUMULATIVE CONSIDERATION OF AT LEAST \$1,000,000; OR**

~~(H)~~ (2) A SINGLE PUBLIC-PRIVATE PARTNERSHIP WITH A SINGLE UNIT INVOLVING CUMULATIVE CONSIDERATION OF AT LEAST \$1,000,000.

~~(7)~~ (G) "PROCUREMENT CONTRACT" HAS THE MEANING STATED IN ~~§ 11-101 OF THE STATE FINANCE AND PROCUREMENT ARTICLE~~ THIS ARTICLE.

~~(8)~~ (H) "PUBLIC COMMUNICATION" HAS THE MEANING STATED IN § 13-306 OF THE ELECTION LAW ARTICLE.

~~(9)~~ (I) "PUBLIC-PRIVATE PARTNERSHIP" HAS THE MEANING STATED IN § 10A-101 OF ~~THE STATE FINANCE AND PROCUREMENT ARTICLE~~ THIS ARTICLE.

~~(10)~~ (J) "STATE BOARD" MEANS THE STATE BOARD OF ELECTIONS.

~~(11)~~ (K) "UNIT" HAS THE MEANING STATED IN § 11-101 OF ~~THE STATE FINANCE AND PROCUREMENT ARTICLE~~ THIS ARTICLE.

12-602.

~~(B)~~ (A) A MAJOR STATE CONTRACTOR SHALL FILE A STATEMENT IN ACCORDANCE WITH THIS SECTION IF AT ANY TIME DURING THE REPORTING PERIOD THE MAJOR STATE CONTRACTOR MADE A COVERED DISBURSEMENT.

~~(C)~~ (B) A STATEMENT REQUIRED UNDER THIS SECTION SHALL BE FILED WITH THE STATE BOARD.

~~(D)~~ (C) (1) THE REPORTING PERIOD IS THE 6-MONTH PERIOD ENDING EITHER APRIL 30 OR OCTOBER 31.

(2) THE STATEMENT SHALL BE FILED ON OR BEFORE THE LAST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE DAY ON WHICH THE REPORTING PERIOD ENDS.

~~(E)~~ (D) THE STATEMENT REQUIRED UNDER THIS SECTION SHALL BE MADE UNDER OATH AND STATE:

(1) THE NAME OF EACH ADVOCACY ORGANIZATION TO WHICH A COVERED DISBURSEMENT WAS MADE DURING THE REPORTING PERIOD;

(2) THE AGGREGATE COVERED DISBURSEMENTS MADE TO EACH ADVOCACY ORGANIZATION;

1 **(3) A DESCRIPTION OF THE MAJOR STATE PROJECT TO WHICH THE**
2 **PUBLIC COMMUNICATIONS OF THE ADVOCACY ORGANIZATION RELATED; AND**

3 **(4) THE NAME OF THE PERSON WHO MADE THE COVERED**
4 **DISBURSEMENT AND THE RELATIONSHIP OF THAT PERSON TO THE MAJOR STATE**
5 **CONTRACTOR FILING THE STATEMENT, IF A COVERED DISBURSEMENT WAS MADE BY**
6 **ANOTHER PERSON BUT IS ATTRIBUTED TO THE MAJOR STATE CONTRACTOR FILING**
7 **THE STATEMENT.**

8 ~~**(F)**~~ **(E) (1) (I) A COVERED DISBURSEMENT MADE BY AN OFFICER, A**
9 **DIRECTOR, OR A PARTNER OF A MAJOR STATE CONTRACTOR SHALL BE ATTRIBUTED**
10 **TO THE MAJOR STATE CONTRACTOR.**

11 **(II) EACH OFFICER, DIRECTOR, OR PARTNER OF A MAJOR**
12 **STATE CONTRACTOR WHO MAKES A COVERED DISBURSEMENT SHALL REPORT THE**
13 **COVERED DISBURSEMENT TO THE CHIEF EXECUTIVE OFFICER OF THE MAJOR STATE**
14 **CONTRACTOR.**

15 **(2) (I) A COVERED DISBURSEMENT MADE BY A PERSON AT THE**
16 **SUGGESTION OR DIRECTION OF A MAJOR STATE CONTRACTOR OR AN OFFICER, A**
17 **DIRECTOR, A PARTNER, OR AN AGENT OF A MAJOR STATE CONTRACTOR SHALL BE**
18 **ATTRIBUTED TO THE MAJOR STATE CONTRACTOR.**

19 **(II) EACH PERSON WHO MAKES A COVERED DISBURSEMENT AT**
20 **THE SUGGESTION OR DIRECTION OF A MAJOR STATE CONTRACTOR OR AN OFFICER,**
21 **A DIRECTOR, A PARTNER, OR AN AGENT OF A MAJOR STATE CONTRACTOR SHALL**
22 **REPORT THE COVERED DISBURSEMENT TO THE CHIEF EXECUTIVE OFFICER OF THE**
23 **MAJOR STATE CONTRACTOR.**

24 **(3) (I) A COVERED DISBURSEMENT MADE BY A SUBSIDIARY OF A**
25 **MAJOR STATE CONTRACTOR, AT LEAST 30% OF THE EQUITY OF WHICH THE MAJOR**
26 **STATE CONTRACTOR OWNS OR CONTROLS, SHALL BE ATTRIBUTED TO THE MAJOR**
27 **STATE CONTRACTOR.**

28 **(II) EACH SUBSIDIARY OF A MAJOR STATE CONTRACTOR**
29 **DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WHO MAKES A**
30 **COVERED DISBURSEMENT SHALL REPORT THE COVERED DISBURSEMENT TO THE**
31 **CHIEF EXECUTIVE OFFICER OF THE MAJOR STATE CONTRACTOR.**

32 ~~**(G)**~~ **(F) THE STATE BOARD SHALL:**

33 **(1) PREPARE AND MAKE AVAILABLE FORMS FOR THE STATEMENT**
34 **REQUIRED BY THIS SECTION;**

(2) RETAIN EACH STATEMENT FILED UNDER THIS SECTION IN THE SAME MANNER AND SUBJECT TO THE SAME STANDARDS OF PUBLIC ACCESS AS A STATEMENT FILED UNDER TITLE 14 OF THE ELECTION LAW ARTICLE; AND

(3) REPORT ANY VIOLATION OF THIS ~~SECTION~~ SUBTITLE TO THE STATE ETHICS COMMISSION.

~~(H)~~ (G) THE STATEMENT REQUIRED UNDER THIS SECTION SHALL BE FILED IN THE MANNER REQUIRED FOR STATEMENTS FILED UNDER TITLE 14 OF THE ELECTION LAW ARTICLE.

12-603.

~~(H)~~ (A) (1) A MAJOR STATE CONTRACTOR REQUIRED TO FILE A STATEMENT UNDER ~~THIS SECTION~~ § 12-602 OF THIS SUBTITLE SHALL MAINTAIN DETAILED AND ACCURATE RECORDS OF COVERED DONATIONS MADE BY THE MAJOR STATE CONTRACTOR OR ATTRIBUTED TO THE MAJOR STATE CONTRACTOR.

(2) A MAJOR STATE CONTRACTOR REQUIRED TO KEEP RECORDS UNDER THIS SUBSECTION SHALL RETAIN THE RECORDS FOR AT LEAST 3 YEARS AFTER THE CREATION OF THE RECORD.

~~(H)~~ (B) (1) THE STATE BOARD MAY AUDIT THE RECORDS OF AN ADVOCACY ORGANIZATION AS IT DETERMINES IS NECESSARY TO ENSURE COMPLIANCE WITH THIS ~~SECTION~~ SUBTITLE.

(2) AN ADVOCACY ORGANIZATION SHALL PROVIDE ANY RECORDS REQUESTED BY THE STATE BOARD UNDER THIS SUBSECTION WITHIN 10 DAYS AFTER THE STATE BOARD'S REQUEST.

(3) INFORMATION OBTAINED BY THE STATE BOARD UNDER THIS SUBSECTION:

(I) MAY BE USED ONLY TO ENFORCE COMPLIANCE WITH THIS ~~SECTION~~ SUBTITLE; AND

(II) MAY NOT BE DISCLOSED TO THE GENERAL PUBLIC.

12-604.

~~(H)~~ (A) (1) A PERSON WHO KNOWINGLY AND WILLFULLY FAILS TO COMPLY WITH THIS ~~SECTION~~ SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) EACH OFFICER, DIRECTOR, OR PARTNER OF A MAJOR STATE CONTRACTOR OR ADVOCACY ORGANIZATION WHO KNOWINGLY AUTHORIZES A VIOLATION OF OR PARTICIPATES IN VIOLATING THIS ~~SECTION~~ SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

~~(A)~~ (B) (1) A PERSON MAY NOT WILLFULLY MAKE A FALSE, FRAUDULENT, OR MISLEADING STATEMENT OR ENTRY IN ANY FILING THAT IS UNDER OATH AND IS REQUIRED BY ~~THIS SECTION~~ § 12-602 OF THIS SUBTITLE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTIES PROVIDED UNDER THE CRIMINAL LAW ARTICLE.

~~(A)~~ (C) THE STATE BOARD MAY IMPOSE FEES FOR THE LATE FILING OF A STATEMENT REQUIRED UNDER § 12-602 OF THIS SECTION ~~SECTION~~ SUBTITLE IN THE SAME MANNER AS PROVIDED UNDER § 14-107 OF THE ELECTION LAW ARTICLE.

~~(A)~~ (D) (1) THE STATE BOARD MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$1,000 IN THE MANNER PROVIDED IN § 13-604.1 OF THE ELECTION LAW ARTICLE FOR THE FOLLOWING VIOLATIONS OF THIS ~~SECTION~~ SUBTITLE:

(I) FAILURE TO REPORT ALL THE INFORMATION REQUIRED UNDER ~~SUBSECTION (E)~~ § 12-602(D) OF THIS SECTION SUBTITLE;

(II) FAILURE TO MAINTAIN DETAILED AND ACCURATE RECORDS AS REQUIRED UNDER ~~SUBSECTION (F)~~ § 12-603(A) OF THIS SECTION SUBTITLE; AND

(III) FAILURE TO PROVIDE RECORDS REQUESTED BY THE STATE BOARD WITHIN THE TIME REQUIRED UNDER ~~SUBSECTION (J)~~ § 12-603(B) OF THIS SECTION SUBTITLE.

(2) A CIVIL PENALTY UNDER THIS ~~SUBSECTION~~ SECTION IS IN ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW.

(3) A CIVIL PENALTY COLLECTED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THE ELECTION LAW ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2022.