

A BILL

This bill would prohibit a person or entity that provides goods or services, payment for goods or services, transfers or facilitates the transfer of goods, services or technologies to certain sectors, persons or entities in Iran as identified on a list created by the [Appropriate State or Local Procurement Authority] or a financial institution that extends credit to persons and entities identified on such a list, from bidding on, entering into or renewing any contract for goods or services with [public entity].

This bill would require the [Appropriate State or Local Procurement Authority], using credible information available to the public, to develop a list of persons or entities it determines provide goods or services, payment for goods and services, transfers or facilitates the transfer of goods, services or technologies to certain persons or entities in Iran or a financial institution that extends credit to such persons and entities.

This bill would require the [Appropriate State or Local Procurement Authority] to provide 30 days written notice of its intent to include the person or entity on the list and to inform the person or entity that inclusion on the list would make the person or entity ineligible to bid on, submit a proposal for, or enter into or renew a contract for goods and services with [public entity], and would require the [Appropriate State or Local Procurement Authority] to provide the person or entity with an opportunity to comment in writing that it is not engaged in investment activities in Iran.

This bill would require a prospective bidder to certify that it is not identified on a list created by the [Appropriate State or Local Procurement Authority], or a financial institution that extends credit to such persons and entities and would impose penalties, as specified, for a person or entity that provides a false certification.

SECTION 1. FINDINGS REGARDING THE DANGER OF IRAN'S ILLEGAL NUCLEAR PROGRAM, SUPPORT OF TERRORISM AND HUMAN RIGHTS VIOLATIONS.

The [Legislative Body] hereby finds and declares all of the following:

- (a) In imposing sanctions on Iran, the United State Congress and the President of the United States have determined that the illicit nuclear activities of the Government of Iran, combined with its development of unconventional weapons and ballistic missiles, and its support of international terrorism, represent a serious threat to the security of the United States and its allies and around the world.

- (b) The International Atomic Energy Agency has repeatedly called attention to Iran’s unlawful nuclear activities, and as a result, the United Nations Security Council has adopted four rounds of sanctions designed to compel the Government of Iran to cease those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (commonly known as the “Nuclear Non-Proliferation Treaty”).
- (c) The human rights situation in Iran has steadily deteriorated since the fraudulent elections of 2009, as evidenced by the brutal repression, torture, murder and arbitrary detention of peaceful protestors, dissidents and minorities.
- (d) On July 1, 2010, President Obama signed into law the *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010*, which expressly authorizes states and local governments to prevent investment in, including prohibiting entry into or renewing contracts with, companies operating in Iran and includes provisions that preclude companies that do business in Iran from contracting with the U.S. Government.
- (e) It is the intent of the [Legislative Body] to implement this authority granted under Section 202 of the *Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010*.
- (f) There are moral and reputational reasons for state and local governments to not engage in business with foreign companies that have business activities benefiting foreign states, such as Iran, that pursue illegal nuclear programs, support acts of terrorism and commit violations of human rights.
- (g) Short-term economic profits cannot be a justification to circumvent even in spirit those international sanctions designed to thwart Iran from developing nuclear weapons.
- (h) The concerns of this [Legislative Body] regarding Iran are strictly the result of the actions of the Government of Iran and should not be construed as enmity toward the Iranian people.

SECTION 2. DEFINITIONS.

As used in this bill, the following definitions apply:

- (a) “[Appropriate State or Local Procurement Authority]” means a department, board, agency, authority, officer, agent, or other authorized representative of the public entity awarding a contract for goods or services.
- (b) “Energy sector” of Iran means activities to develop, invest in, explore for, refine, transfer, purchase or sell petroleum, gasoline, or other refined petroleum products or

natural gas, liquefied natural gas resources or nuclear power in Iran.

- (c) “Financial institution” means the term as used in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).
- (d) “Construction sector” of Iran means activities to plan, design, engineer, build, construct or finance projects and investments related to development of Iranian infrastructure, including infrastructure related to Iran’s oil and gas or nuclear power industry.
- (e) The term "Iran" means the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements.
- (f) “Person or Entity” means any of the following:
 - (1) A natural person, corporation, company, limited partnership, limited liability partnership, limited liability company, business association, sole proprietorship, joint venture, partnership, society, trust, or any other nongovernmental entity, organization, or group.
 - (2) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)).
 - (3) Any parent, successor, subunit, direct or indirect subsidiary, or any entity under common ownership or control with, any entity described in paragraphs (1) or (2).
- (g) For purposes of this bill, a person or entity engages in investment activities in Iran if any of the following is true.

The person or entity:

- (1) Provides goods or services in or to the energy, finance or construction sectors of Iran.
- (2) Provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran.

- (3) Purchases crude oil, refined petroleum products or natural gas from Iran.
- (4) Provides goods or services, or payment for goods or services, to a person or entity on the U.S. Office of Foreign Assets Control's (OFAC) Specially Designated Nationals List (SDN) for Iran or to a non-country specific person or entity placed on the SDN for violation of OFAC Iran Sanctions.
- (5) Transfers, or facilitates the transfer of, goods or technologies to Iran; or provides services to Iran including through joint ventures or licensing of any intellectual property with respect to goods or technologies described below:
 - (A) Firearms or ammunition (as those terms are defined in section 921 of title 18, United States Code), accessories for firearms, rubber bullets, clubs, batons, police sticks, mace, stun grenades, tasers or other electroshock weapons, tear gas, water cannons, motorcycles, motorized transport for security personnel or surveillance technology;
 - (B) Sensitive technology (as defined in section 106(c) of the *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010* (22 U.S.C. 8515(c)); and
 - (C) Other goods or technologies that the [Appropriate State or Local Procurement Authority] determines have or may be used by the Government of Iran to commit human rights abuses against the people of Iran whether or not such goods or technologies are sold directly to the government of Iran or otherwise.
- (6) Is a financial, insurance or other institution that extends credit to a person or entity that engages in investment activities described in paragraphs (1), (2), (3), (4) or (5) and is identified on a list created pursuant to subdivision (b) of Section 3 as a person or entity engaging in investment activities in Iran.

SECTION 3. DEBARMENT.

- (a) A person or entity that, at the time of bid or proposal for a new contract or renewal of an existing contract, is identified on a list created pursuant to subdivision (b) as a person or entity engaging in investment activities in Iran as described in paragraphs (1), (2), (3), (4), (5) or (6) of subdivision (g) of Section 2, is ineligible to, and shall not, bid on, submit a proposal for, or enter into or renew, a contract with a public entity for goods or services.

- (b) By [date], the [Appropriate State or Local Procurement Authority] shall, using credible information available to the public, develop a list of persons or entities it determines engage in investment activities in Iran as described in paragraph (1), (2), (3), (4), (5) or (6) of subdivision (g) of Section 2.
- (c) The [Appropriate State or Local Procurement Authority] shall update the list every 90 days.
- (d) Before finalizing an initial list pursuant to subdivision (b) of this section or on updated list pursuant to subdivision (c) of this section, the awarding body shall do all of the following before a person or entity is included on the list:
 - (1) Provide 30 days written notice of its intent to include the person or entity on the list. The notice shall inform the person or entity that inclusion on the list would make the person or entity ineligible to bid on, submit a proposal for, or enter into or renew, a contract for goods or services with a public entity.
 - (2) Provide a person or entity with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the person or entity demonstrates to the awarding body that the person or entity is not engaged in investment activities in Iran as described in paragraphs (1), (2), (3), (4), (5) or (6) of subdivision (g) of Section 2, the person or entity shall not be included on the list, unless the person or entity is otherwise ineligible to bid on a contract as described in paragraph (3) of subdivision (a) of Section 5.
- (e) The awarding body shall make every effort to avoid erroneously including a person or entity on the list.

SECTION 4. CERTIFICATION.

- (a) The [Appropriate State or Local Procurement Authority] shall require a person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract to certify, at the time the bid is submitted or the contract is renewed, that the person or entity is not identified on a list created pursuant to subdivision (b) of Section 3 as a person or entity engaging in investment activities in Iran described in paragraphs (1), (2), (3), (4), (5) or (6) of subdivision (g) of Section 2.
- (b) The certification required under paragraph (a) shall be executed on behalf of the applicable person or entity by an authorized officer or representative of the person or entity.

- (c) In the event that a person or entity is unable to make the certification required under paragraph (a) because it or one of its parents, subsidiaries, or affiliates as defined in subdivision (f) of Section 2 has engaged in one or more of the activities specified in paragraphs (1), (2), (3), (4), (5) or (6) of subdivision (g) of Section 2, the person or entity shall provide to the [Appropriate State or Local Procurement Authority] concerned, prior to the deadline for delivery of such certification, a detailed and precise description of such activities, such description to be provided under penalty of perjury.
- (d) The certifications provided under subdivision (a) of this section and disclosures provided under subdivision (c) of this section shall be publicly disclosed.

SECTION 5. PENALTIES.

- (a) If the awarding body determines, using credible information available to the public and after providing 30 days written notice and an opportunity to comment in writing for the person or entity to demonstrate that it is not engaged in investment activities in Iran, that the person or entity has submitted a false certification under Section 4, and the person or entity fails to demonstrate to the [Appropriate State or Local Procurement Authority] that the person or entity has ceased its engagement in the investment activities in Iran within 30 days after the determination of a false certification, the following shall apply:
 - (1) Pursuant to an action under subdivision (b), a civil penalty in an amount that is equal to the greater of one million dollars (\$1,000,000) or twice the amount of the contract for which the false certification was made.
 - (2) Termination of an existing contract with the [Appropriate State or Local Procurement Authority] as deemed appropriate by the [Appropriate State or Local Procurement Authority].
 - (3) Ineligibility to bid on a contract for a period of three years from the date of the determination that the person or entity submitted the false certification.
- (b) The [Appropriate State or Local Procurement Authority] shall report to the Attorney General, or other appropriate governmental representative the name of the person or entity that the awarding body determines has submitted a false certification under Section 4, together with its information as to the false certification, and the Attorney General or other appropriate governmental representative shall determine whether to bring action against the person or entity to collect the penalty described in paragraph (1) of subdivision (a).

SECTION 6. ENFORCEMENT.

This act shall occupy the field with regard to all public contracts for goods or services with a person or entity engaged in investment activities in Iran and shall preempt any law, ordinance, rule, or regulation of any local public entity involving public contracts for goods or services with a person or entity engaged in investment activities in Iran.