



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 1024 (as enacted)  
Sponsor: Senator Roger Kahn, M.D.  
Senate Committee: Banking and Financial Institutions  
House Committee: Banking and Financial Services

**PUBLIC ACT 517 of 2012**

Date Completed: 3-6-13

**CONTENT**

**The bill creates the "Iran Economic Sanctions Act" to do the following:**

- **Make an Iran linked business ineligible to submit a bid on a request for proposal (RFP) with a public entity.**
- **Provide that a public entity must require a person submitting a bid on an RFP to certify that the person is not an Iran linked business.**
- **Require a public entity, if it determines that a person submitted a false certification, to notify the person of its intent not to enter into a contract, and allow the person to contest the determination.**
- **Allow a public entity to terminate any existing contract with a person who submitted a false certification; and require the entity to notify the Attorney General.**
- **Allow the Attorney General to bring a civil action against a person who submitted a false certification; and recover a monetary penalty, the cost of the public entity's investigation, and attorney fees.**
- **Provide that a person who submitted a false certification will be ineligible to bid on an RFP for three years.**

The Act will take effect on April 1, 2013.

The provisions of the Act will be effective only if Iran is a "state sponsor of terror", as defined in the Divestment from Terror Act (i.e., a country determined by the U.S. Secretary of State to have repeatedly provided support for acts of international terrorism).

Definitions

The Iran Economic Sanctions Act defines "Iran linked business" as either of the following:

- A person engaging in investment activities in the energy sector of Iran, including a person who 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.
- A financial institution that extends credit to another person, if that person will use the credit to engage in investment activities in the energy sector of Iran.

"Energy sector of Iran" means activities to develop petroleum or natural gas resources or nuclear power in Iran.

"Investment activity" refers to one or both of the following:

- A person's investment of \$20.0 million or more in the energy sector of Iran.
- A financial institution's extension of \$20.0 million or more in credit to another person, for 45 days or more, if that person will use the credit for investment in the energy sector of Iran.

"Investment" means one or more of the following:

- A commitment or contribution of funds or property.
- A loan or other extension of credit.
- The entry into or renewal of a contract for goods or services.

"Public entity" means this State or an agency or authority of this State, or a school district, community college district, intermediate school district, city, village, township, county, public authority, or public airport authority.

"Person" means any of the following:

- An individual, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group.
- Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in the Federal International Financial Institutions Act.
- Any successor, subunit, parent company, or subsidiary of, or company under common ownership or control with, any entity described above.

(Under the International Financial Institutions Act, a "multilateral development institution" is an international financial institution listed in the Act other than the International Monetary Fund. In addition to that Fund, international financial institutions include the International Bank for Reconstruction and Redevelopment, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, and others.)

#### Ineligibility to Bid; Certification

Beginning on April 1, 2013, an Iran linked business will not be eligible to submit a bid on a request for proposal with a public entity.

Also beginning on April 1, 2013, a public entity will have to require a person who submits a bid on an RFP with the public entity to certify that the person is not an Iran linked business.

#### False Certification

If a public entity determines, using credible information available to the public, that a person has submitted a false certification that the person is not an Iran linked business, the public entity must give the person written notice of its determination and of the intent not to enter into or renew

a contract with the person. The notice must include information on how to contest the determination and specify that the person may become eligible for a future contract with the public entity if the person ceases activities that cause it to be an Iran linked business.

The person will have 90 days after receiving the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the person does not make that demonstration within the 90-day time frame, the public entity may terminate any existing contract and must report the name of the person to the Attorney General, together with information supporting the determination.

#### Civil Action; Penalties

The Attorney General may bring a civil action against a person reported as described above. If a civil action results in a finding that the person submitted a false certification, the person will be responsible for a maximum civil penalty of \$250,000 or twice the amount of the contract or proposed contract for which the false certification was made, whichever is greater. The person also will be responsible for the cost of the public entity's investigation and reasonable attorney fees.

A person who submitted a false certification will be ineligible to bid on an RFP for three years from the date the public entity determines that the person has submitted a false certification.

MCL 129.311-129.316

Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

The Attorney General will have additional costs to pursue civil actions for false certifications. Any civil fine revenue recovered by the Attorney General will be deposited in the General Fund. The amount of costs and civil fine revenue will depend on the number and type of cases.

Fiscal Analyst: Elizabeth Pratt

#### S1112\S1024es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.