



Senate Fiscal Agency
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BILL ANALYSIS



Telephone: (517) 373-5383
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Senate Bill 1024 (Substitute S-3)
Senate Bill 1027 (Substitute S-1)
House Bill 5480 (Substitute S-1)
House Bill 5481 (Substitute S-1)
House bill 5483 (Substitute S-2)
House Bill 5484 (Substitute S-2)

Sponsor: Senator Roger Kahn, M.D. (S.B. 1024)
Senator Darwin L. Booher (S.B. 1027)
Representative Marty Knollenberg (H.B. 5480)
Representative Mike Calton (H.B. 5481)
Representative Chuck Moss (H.B. 5483)
Representative Gail Haines (H.B. 5484)

Senate Committee: Banking and Financial Institutions

House Committee: Banking and Financial Services (H.B. 5480, 5481, 5483 & 5484)

Date Completed: 5-10-12

CONTENT

Senate Bill 1024 (S-3) would create the "Iran Economic Sanctions Act" to do the following:

- **Make an Iran linked business ineligible to submit a bid on a request for proposal (RFO) with a public entity.**
- **Provide that a public entity would have to require a person submitting a bid on an RFP to certify that the person was not an Iran linked business.**
- **Prescribe penalties for a person who submitted a false certification.**
- **Require a public entity to notify a person of its determination that the person was an Iran linked business, and of the intent not to enter into or renew a contract with the person.**

The remaining bills would amend various statutes to require compliance with the proposed Iran Economic Sanctions Act, with respect to funds awarded by the Michigan Strategic Fund, State purchasing and construction contracts, the receipt of revenue sharing payments, and the receipt of transportation funding.

Senate Bill 1024 (S-3) would take effect on January 1, 2013. The other bills are tie-barred to Senate Bill 1024.

Senate Bill 1024 (S-3)

Definitions

The term "Iran linked business" would mean a person that has direct investments in Iran or holds a contract with Iran or a political subdivision of Iran. The term would not include a social development company as defined in the Divestment from Terror Act, or an air carrier or foreign air carrier holding a certificate or permit under 49 USC 40101-50101. (Under that law, an air carrier must hold a certificate in order to provide air transportation, and a foreign air carrier must hold a permit to provide foreign air transportation. Certificates and permits are issued by the U.S. Secretary of Transportation.)

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

"Person" would mean 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 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

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

A public entity would have to require a person who submitted a bid on an RFP with the public entity, to certify that the person was not an Iran linked business.

Penalties

If a public entity determined that a person had submitted a false certification that the person was not an Iran linked business, the person would be subject to the following:

- Termination of any existing contract with the public entity, at its option.
- Ineligibility to bid on an RFP for three years from the date of the determination.
- Referral for civil prosecution for collection of a fine of up to \$250,000 or twice the amount of the contract or proposed contract for which the false certification was made, whichever was greater.

If a public entity determined that a person had submitted a false certification, the public entity would have to report the person's name, and information supporting the determination, to the Attorney General. The Attorney General could bring a civil action against the person to collect the fine. If the action resulted in a finding that the person submitted a false certification, the person would be responsible for the cost of the public entity's investigation and reasonable attorney fees, in addition to the fine.

Notice

If a public entity determined, based on credible information, that a person who had submitted a bid on an RFP in violation of the proposed Act and entered into a contract with the public entity was an Iran linked business, the public entity would have to notify the person of that determination and of the intent not to enter into or renew a contract with the person. The notice would have to specify that the person could become eligible for a future contract with the public entity if the person ceased the activities that caused it to be an Iran linked business.

Upon the person's request, the public entity would have to give the person an opportunity to demonstrate that it was not an Iran linked business. If the public entity determined that

the person was not an Iran linked business, the person would have to be notified that it was not ineligible to bid on an RFP with the public entity.

Senate Bill 1027 (S-1)

The bill would amend the Michigan Strategic Fund (MSF) Act to require the MSF to establish requirements to ensure that any recipient of funds, including a loan, a grant, or funding or other assistance for a project, was not an Iran linked business as described in the proposed Act.

House Bill 5480 (S-1)

The Management and Budget Act contains requirements for the Department of Technology, Management, and Budget (DTMB) to procure supplies, materials, services, equipment, and all other items needed by State agencies. Whenever practical, the DTMB must solicit competitive bids from the private sector.

The Act also allows the Department to delegate its procurement authority to other State agencies within dollar limits and for designated types of procurements. The DTMB may withdraw delegated authority upon finding that a State agency did not comply with departmental procurement directives.

The bill would require the DTMB's solicitation procedures and awards to comply with the proposed Iran Economic Sanctions Act. The bill also would allow the Department to withdraw delegated procurement authority if it found that a State agency did not comply with that Act.

House Bill 5481 (S-1)

The Management and Budget Act provides that a contract may not be awarded for the construction, repair, remodeling, or demolition of a facility unless the contract is let pursuant to a bidding procedure approved by the State Administrative Board. The DTMB must issue directives prescribing procedures to implement the requirements for awarding a construction contract, and the procedures must require a competitive solicitation in the award of any such contract.

Under the bill, the procedures also would have to require compliance with the Iran Economic Sanctions Act.

House Bill 5483 (S-2)

The bill would amend the State Revenue Sharing Act to require a county, city, village, or township receiving payment under the Act to comply with the Iran Economic Sanctions Act.

House Bill 5484 (S-2)

The bill would amend the Michigan Transportation Fund law, Public Act 51 of 1951, to require the Michigan Department of Transportation or a county, city, or village receiving money under the Act, to comply with the Iran Economic Sanctions Act.

Proposed MCL 125.2015 (S.B. 1027)
MCL 18.1261 (H.B. 5480)
MCL 18.1241 (H.B. 5481)
Proposed MCL 141.917b (H.B. 5483)
Proposed MCL 247.651j (H.B. 5484)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 1024 (S-3)

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

Senate Bill 1027 (S-1)

The bill would require the Michigan Strategic Fund to expand its existing due diligence process. Any costs would be absorbed within its available resources.

House Bills 5480 (S-1), 5481 (S-1), & 5484 (S-2)

The bills would have no fiscal impact on State or local government.

House Bill 5483 (S-2)

State revenue sharing for local units of government consists of constitutional revenue sharing, county statutory revenue sharing, the Competitive Grant Assistance Program (consolidation grants), and the Economic Vitality Incentive Program (EVIP). Constitutional revenue sharing payments to cities, villages, and townships cannot be reduced without a constitutional amendment; therefore, these payments, which are estimated at \$697.5 million in FY 2011-12, would not be affected by the bill. The Economic Vitality Incentive Program for eligible cities, villages, and townships and the Competitive Grant Assistance Program for selected cities, villages, townships, and counties are created in budget bill boilerplate. Although these are referred to as revenue sharing programs, the payments are made according to Public Act 63 of 2011 (the FY 2011-12 State government appropriation) and it would be a matter of interpretation as to whether the proposed requirement in the Glenn Steil State Revenue Sharing Act would apply to qualification for EVIP and Competitive Grant Assistance payments. In FY 2011-12, the Department of Treasury has reported that 486 cities, villages, and townships are eligible for payments under EVIP. The remaining 1,315 local units (excluding counties) are not eligible for the EVIP program. The Competitive Grant Assistance Program was funded at \$5.0 million in FY 2011-12.

Counties that receive statutory revenue sharing payments under the Revenue Sharing Act in FY 2011-12 would be required to comply with the proposed Iran Economic Sanctions Act in order to qualify for those payments. If a county forfeited a statutory revenue sharing payment pursuant to the bill, those funds would be available for distribution to other counties under the revenue sharing formula. Based on the FY 2011-12 appropriated amount, the formula is prorated; thus, the State would not receive any savings from noncompliance by a county. In FY 2011-12, \$115.0 million is appropriated for county revenue sharing. There are 50 counties that are projected to receive revenue sharing payments in FY 2011-12. In FY 2012-13, 61 counties are expected to receive county revenue sharing. Remaining counties are still making withdrawals from their revenue sharing reserve funds, which were created in FY 2004-05. Those withdrawals are determined under the General Property Tax Act and would not be affected by the bill.

The Department of Treasury would incur unknown additional costs to verify county compliance with the requirements of the bill. Local governments determined to be subject to this proposed revenue sharing requirement would have to revise their procurement procedures to comply with the bill at an unknown cost.

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