

**Senate File 2127 - Introduced**

SENATE FILE 2127

BY PETERSEN, JOCHUM, and McCOY

**A BILL FOR**

1 An Act concerning the establishment of a process for the  
2 debarment of a person from entering into certain state  
3 contracts with a state agency.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.311, Code 2016, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 23. An agency, including an institution  
4 under the control of the state board of regents, shall not  
5 enter into a contract, or authorize a contract, with a person  
6 who is debarred as provided in section 8A.319.

7 Sec. 2. NEW SECTION. **8A.319 Vendor debarment.**

8 1. The department shall establish a process to debar a  
9 person from eligibility to enter into a contract with an  
10 agency, including an institution under the control of the  
11 state board of regents, pursuant to the competitive bidding  
12 requirements of section 8A.311, subject to the requirements of  
13 this section.

14 2. The department may debar a person from eligibility to  
15 enter into a contract with an agency, including an institution  
16 under the control of the state board of regents, for a period  
17 of not more than three years for any of the following reasons:

18 a. The person, including any employee of the person,  
19 has been convicted of a criminal offense as an incident to  
20 obtaining or attempting to obtain a public or private contract  
21 or subcontract, or in the performance of such contract or  
22 subcontract.

23 b. The person, including any employee of the person,  
24 has been convicted, or has had a final determination in a  
25 civil action under a state or federal statute, of fraud,  
26 embezzlement, theft, forgery, bribery, falsification or  
27 destruction of records, receiving stolen property, violation  
28 of the federal False Claims Act, 31 U.S.C. §3729 et seq.,  
29 violation of chapter 685, or any other offense indicating a  
30 lack of business integrity or business honesty that currently,  
31 seriously, and directly affects responsibility as a state  
32 contractor.

33 c. The person, including any employee of the person, has  
34 been convicted under a state or federal antitrust statute  
35 arising out of the submission of a bid or proposal.

1     *d.* The person has had two or more violations within the  
2 previous five years of the federal Labor Relations Act as  
3 determined by the national labor relations board or a court of  
4 competent jurisdiction.

5     *e.* The person has violated a provision of a contract in a  
6 manner that is regarded by the director to be so serious as to  
7 justify debarment action and that meets any of the following  
8 conditions:

9       (1) Deliberate failure without good cause to perform in  
10 accordance with the specifications or within the time limit  
11 provided in the contract.

12       (2) A recent record of failure to perform or of  
13 unsatisfactory performance in accordance with the terms of  
14 one or more contracts. However, the failure to perform or  
15 unsatisfactory performance caused by acts beyond the control of  
16 the person shall not be considered a basis for debarment.

17     *f.* Any other cause the director determines to be so  
18 serious and compelling as to affect responsibility as a state  
19 contractor, including debarment by another governmental entity  
20 for any cause.

21     3. The process for the debarment of a person shall commence  
22 by delivering to the person notice, by means authorized by  
23 section 17A.18, setting forth the particular reasons for such  
24 action and the length of the debarment.

25     *a.* If a written request for a hearing is not received  
26 within thirty days after the delivery of notice as provided in  
27 this subsection, the debarment shall become effective pending  
28 a final determination by the department. The determination  
29 involved in the notice may be affirmed, modified, or set aside  
30 by the department in a written decision.

31     *b.* If a request for a hearing is timely received by the  
32 department, the person shall be given an opportunity for a  
33 prompt and fair hearing before the department and the debarment  
34 shall be deemed suspended until the department makes a final  
35 determination. The procedure governing hearings authorized

1 by this paragraph shall be in accordance with the rules  
2 promulgated by the department and chapter 17A.

3 4. A copy of the final decision of the department shall be  
4 sent to the person by electronic mail or certified mail, with  
5 return receipt requested, or served personally upon the person.  
6 The person may seek judicial review in accordance with the  
7 terms of the Iowa administrative procedure Act, chapter 17A.

8 5. The department shall adopt rules to implement the  
9 requirements of this section.

10

EXPLANATION

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The inclusion of this explanation does not constitute agreement with  
12 the explanation's substance by the members of the general assembly.

12

13 This bill provides that a state agency shall not enter into  
14 a contract with a person who has been debarred pursuant to the  
15 requirements of the bill.

16 Code section 8A.311, concerning competitive bidding  
17 requirements, is amended to provide that a state agency,  
18 including an institution under the control of the state board  
19 of regents, shall not enter into a contract, or authorize a  
20 contract, with a person who is debarred.

21 New Code section 8A.319 establishes the process for DAS  
22 to debar a person from eligibility to enter into a contract  
23 with a state agency, including an institution under the  
24 control of the state board of regents. The new Code section  
25 provides that the length of the debarment shall not exceed  
26 three years, specifies the reasons to debar a person, and  
27 establishes the administrative process, including rights for  
28 a hearing and judicial review, for debarring a person. The  
29 bill provides that reasons for debarment of a person include  
30 a criminal offense conviction as an incident to obtaining or  
31 attempting to obtain a public or private contract, conviction  
32 or civil action determination of an offense indicating a lack  
33 of business integrity or honesty, conviction under a state or  
34 federal antitrust statute arising out of the submission of a  
35 bid or proposal, violations of the federal Labor Relations Act,

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1 certain violations of contract provisions, and any other cause  
2 the DAS director determines to be so serious and compelling  
3 as to affect responsibility as a state contractor, including  
4 debarment by another governmental entity for any cause.