

**Senate File 2274 - Introduced**

SENATE FILE 2274  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SF 2127)

**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. Except for the department of  
4 transportation, an agency, including an institution under the  
5 control of the state board of regents, shall not enter into  
6 a contract, or authorize a contract, with a person who is  
7 debarred as provided in section 8A.319.

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

9 1. The department shall establish a process to debar a  
10 person from eligibility to enter into a contract with an  
11 agency, including an institution under the control of the  
12 state board of regents, pursuant to the competitive bidding  
13 requirements of section 8A.311, subject to the requirements of  
14 this section. For purposes of this section, "agency" does not  
15 include the department of transportation.

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

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

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

35 c. The person, including any employee of the person, has

1 been convicted under a state or federal antitrust statute  
2 arising out of the submission of a bid or proposal.

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

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

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

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

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

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

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

33 *b.* If a request for a hearing is timely received by the  
34 department, the person shall be given an opportunity for a  
35 prompt and fair hearing before the department and the debarment

1 shall be deemed suspended until the department makes a final  
2 determination. The procedure governing hearings authorized  
3 by this paragraph shall be in accordance with the rules  
4 promulgated by the department and chapter 17A.

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

10 5. The department shall adopt rules to implement the  
11 requirements of this section.

12 EXPLANATION

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

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

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

24 New Code section 8A.319 establishes the process for DAS to  
25 debar a person from eligibility to enter into a contract with  
26 a state agency, including an institution under the control of  
27 the state board of regents. The bill provides that a state  
28 agency does not include the department of transportation for  
29 purposes of this new Code section. The new Code section  
30 provides that the length of the debarment shall not exceed  
31 three years, specifies the reasons to debar a person, and  
32 establishes the administrative process, including rights for  
33 a hearing and judicial review, for debarring a person. The  
34 bill provides that reasons for debarment of a person include  
35 a criminal offense conviction as an incident to obtaining or

S.F. 2274

1 attempting to obtain a public or private contract, conviction  
2 or civil action determination of an offense indicating a lack  
3 of business integrity or honesty, conviction under a state or  
4 federal antitrust statute arising out of the submission of a  
5 bid or proposal, violations of the federal Labor Relations Act,  
6 certain violations of contract provisions, and any other cause  
7 the DAS director determines to be so serious and compelling  
8 as to affect responsibility as a state contractor, including  
9 debarment by another governmental entity for any cause.