



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1024 (Substitute S-4 as passed by the Senate)
Senate Bill 1027 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Roger Kahn, M.D. (S.B. 1024)
Senator Darwin L. Booher (S.B. 1027)
Committee: Banking and Financial Institutions

Date Completed: 8-31-12

CONTENT

Senate Bill 1024 (S-4) 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 (RFP) 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.**

Senate Bill 1027 (S-2) would amend the Michigan Strategic Fund Act to require the Strategic Fund 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.

Senate Bill 1024 (S-4) would take effect on January 1, 2013. Senate Bill 1027 (S-2) is tied to Senate Bill 1024.

Below is a detailed description of Senate Bill 1024 (S-4).

Definitions

The term "Iran linked business" would mean either of the following:

- A person with an investment 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 for investment in the energy sector of Iran.

"Public entity" would mean 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" 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

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 the option of the public entity.
- Ineligibility to bid on an RFP for three years from the date of the determination.
- Referral for civil prosecution for collection of a fine.

The maximum amount of the fine would be \$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.

FISCAL IMPACT

Senate Bill 1024 (S-4)

The Attorney General would have additional costs to pursue civil actions 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-2)

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

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