

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 722
96TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, March 1, 2012, with recommendation that the Senate Committee Substitute do pass.

5353S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 34, RSMo, by adding thereto one new section relating to restricting public contracts with entities that invest in the energy sector in Iran.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 34, RSMo, is amended by adding thereto one new section, to be known as section 34.225, to read as follows:

34.225. 1. This section shall be known and may be cited as the "Iran Energy Divestment Act".

2. As used in this section, the following terms shall mean:

(1) "Awarding body", a department, board, agency, authority, or officer, agent, or other authorized representative of the public entity awarding a contract for goods or services;

(2) "Energy sector", activities to develop petroleum or natural gas resources or nuclear power;

(3) "Financial institution", the term as used in Section 14(5) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note);

(4) "Iran", any agency or instrumentality of Iran;

(5) "Person", any of the following:

(a) A natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(b) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3));

(c) Any successor, subunit, parent company, or subsidiary of, or

21 **company under common ownership or control with, any entity**
22 **described in paragraph (a) or (b) of this subsection;**

23 **(6) "Proscribed investor", a person that engages in investment**
24 **activities in the energy sector in Iran. A person engages in investment**
25 **activities in the energy sector in Iran if any of the following is true:**

26 **(a) The person has an investment of twenty million dollars or**
27 **more in the energy sector in Iran;**

28 **(b) The person provides oil or liquified natural gas tankers, or**
29 **products used to construct or maintain pipelines used to transport oil**
30 **or liquified natural gas, for the energy sector in Iran;**

31 **(c) The person is a financial institution that extends twenty**
32 **million dollars or more in credit to another person, for forty-five days**
33 **or more, if that person will use the credit to invest in the energy sector**
34 **in Iran;**

35 **(7) "Public entity", the state or any officer, official, authority,**
36 **board, or commission of the state and any county, city, or other**
37 **political subdivision of the state, or any institution supported in whole**
38 **or in part by public funds.**

39 **3. A proscribed investor is ineligible to, and shall not, bid on,**
40 **submit a proposal for, or enter into, a contract with a public entity for**
41 **goods or services in excess of one million dollars.**

42 **4. A public entity shall require a person that submits a bid or**
43 **proposal to, or otherwise proposes to enter into a contract with, a**
44 **public entity with respect to a contract for goods or services in excess**
45 **of one million dollars, that currently or within the previous three years**
46 **has had business activities or other operations outside of the United**
47 **States, to certify that the person is not a proscribed investor.**

48 **5. (1) The awarding body shall report to the attorney general the**
49 **name of the person that the awarding body determines has submitted**
50 **a false certification together with its information as to the false**
51 **certification. The attorney general, upon such report or any complaint**
52 **from any individual, shall determine whether to bring a civil action**
53 **against the person to collect the penalty described in paragraph (a) of**
54 **subdivision (2) of this subsection. If it is determined in the action that**
55 **the person submitted a false certification, the person shall pay all costs**
56 **and fees the plaintiff incurred in a civil action, including costs incurred**
57 **by the awarding body for investigations that led to the finding of the**

58 false certification and all costs and fees incurred by the attorney
59 general.

60 (2) If the attorney general determines that a person has
61 submitted a false certification under subsection 4 of this section, the
62 person shall be subject to the following:

63 (a) A civil penalty of two hundred fifty thousand dollars;

64 (b) Termination, without penalty, of an existing contract with the
65 awarding body;

66 (c) Ineligibility to bid on, or enter into, a contract with a public
67 entity for a period of three years from the date of the determination
68 that the person submitted the false certification.

69 6. (1) If the awarding body determines that a person that has an
70 existing contract with the awarding body, has submitted a pending bid
71 or contract proposal to, or otherwise proposes to enter into a contract
72 with the awarding body by using credible information available to the
73 public and determines that the person is a proscribed investor, the
74 awarding body shall provide ninety days written notice of its intent to
75 not enter into or renew a contract for goods or services with the
76 person. The notice shall specify that the person may become eligible
77 for a future contract for goods or services with the awarding body if it
78 ceases its engagement in investment activities in the energy sector in
79 Iran.

80 (2) The awarding body shall provide a person determined to be
81 a proscribed investor with an opportunity to demonstrate to the
82 awarding body that it is not engaged in investment activities in the
83 energy sector in Iran. If the awarding body determines that the person
84 is not engaged in investment activities in the energy sector in Iran, the
85 person shall be eligible to enter into or renew a contract for goods or
86 services with the awarding body.

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