

SECOND REGULAR SESSION

SENATE BILL NO. 722

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time January 31, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5353S.031

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 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.

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, that
45 currently or within the previous three years has had business activities
46 or other operations outside of the United States, to certify that the
47 person is not a proscribed investor.

48 5. (1) If the awarding body determines that a person has
49 submitted a false certification under subsection 4 of this section, the
50 person shall be subject to the following:

51 (a) Pursuant to an action under subdivision (2) of this
52 subsection, a civil penalty in an amount that is equal to the greater of
53 two hundred fifty thousand dollars or twice the amount of the contract
54 for which the false certification was made;

55 (b) Termination, without penalty, of an existing contract with the
56 awarding body at the option of the awarding body;

57 (c) Ineligibility to bid on, or enter into, a contract with a public
58 entity for a period of three years from the date of the determination

59 that the person submitted the false certification.

60 (2) The awarding body shall report to the attorney general the
61 name of the person that the awarding body determines has submitted
62 a false certification, together with its information as to the false
63 certification, and the attorney general shall determine whether to bring
64 a civil action against the person to collect the penalty described in
65 paragraph (a) of subdivision (1) of this subsection. If it is determined
66 in the action that the person submitted a false certification, the person
67 shall pay all costs and fees the plaintiff incurred in a civil action,
68 including costs incurred by the awarding body for investigations that
69 led to the finding of the false certification and all costs and fees
70 incurred by the attorney general.

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

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

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