

As Introduced

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H. B. No. 534

Representatives Crossman, Hicks-Hudson

Cosponsors: Representatives Troy, Lepore-Hagan, Miller, A., Russo, Miller, J., Sobecki, West, Skindell, Weinstein, Smith, M., Liston, Sheehy, Upchurch, Brown, Miranda, Galonski, Leland, Jarrells, Lightbody

A BILL

To amend sections 125.25, 153.02, and 5513.06 of 1
the Revised Code to require the debarment of a 2
state vendor who engages in corrupt activity, to 3
specify the duration of a debarment, and to 4
limit which debarments may be rescinded. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 125.25, 153.02, and 5513.06 of 6
the Revised Code be amended to read as follows: 7

Sec. 125.25. (A) The director of administrative services 8
may debar a vendor from consideration for contract awards upon a 9
finding based upon a reasonable belief that the vendor has done 10
any of the following: 11

(1) Abused the selection process by repeatedly withdrawing 12
bids or proposals before purchase orders or contracts are issued 13
or failing to accept orders based upon firm bids; 14

(2) Failed to substantially perform a contract according 15
to its terms, conditions, and specifications within specified 16

time limits;	17
(3) Failed to cooperate in monitoring contract performance by refusing to provide information or documents required in a contract, failed to respond to complaints to the vendor, or accumulated repeated justified complaints regarding performance of a contract;	18 19 20 21 22
(4) Attempted to influence a public employee to breach ethical conduct standards or to influence a contract award;	23 24
(5) Colluded to restrain competition by any means;	25
(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the vendor's business integrity;	26 27 28 29 30 31
(7) Been convicted under state or federal antitrust laws;	32
(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;	33 34 35
(9) Violated any other responsible business practice or performed in an unsatisfactory manner as determined by the director;	36 37 38
(10) <u>(5)</u> Through the default of a contract or through other means had a determination of unresolved finding for recovery by the auditor of state under section 9.24 of the Revised Code;	39 40 41 42
(11) <u>(6)</u> Acted in such a manner as to be debarred from participating in a contract with any governmental agency.	43 44

(B) The director of administrative services shall debar a 45
vendor from consideration for contract awards upon a finding 46
based upon a reasonable belief that the vendor has done any of 47
the following: 48

(1) Attempted to influence a public employee to breach 49
ethical conduct standards or to influence a contract award; 50

(2) Colluded to restrain competition by any means; 51

(3) Been convicted under, or pleaded guilty to a violation 52
of, state or federal antitrust laws; 53

(4) Been convicted under, or pleaded guilty to a violation 54
of, state or federal corruption laws, including a criminal 55
offense related to bribery; 56

(5) Been convicted, or pleaded guilty to a violation, of a 57
criminal offense related to the application for or performance 58
of any public or private contract, including, but not limited 59
to, embezzlement, theft, forgery, falsification or destruction 60
of records, receiving stolen property, and any other offense 61
that directly reflects on the vendor's business integrity; 62

(6) Deliberately or willfully submitted false or 63
misleading information in connection with the application for or 64
performance of a public contract; 65

(7) Admitted to a violation of section 2923.32 of the 66
Revised Code in any civil proceeding or in a settlement 67
agreement related to the application for or performance of any 68
public or private contract, including, but not limited to, 69
embezzlement, theft, forgery, falsification or destruction of 70
records, receiving stolen property, and any other offense that 71
directly reflects on the vendor's business integrity. 72

(C) When the director reasonably believes that grounds for debarment exist, the director shall send the vendor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the vendor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the director shall issue the debarment decision without a hearing and shall notify the vendor of the decision by certified mail, return receipt requested.

~~(C)~~ (D) The director shall determine the length of the debarment period ~~and, which shall be for not less than one year and not more than three years.~~ The director may rescind the a debarment administered under division (A) of this section at any time upon notification to the vendor. During the period of debarment, the vendor is not eligible to participate in any state contract. After the debarment period expires, the vendor may be eligible to be awarded contracts by state agencies if the vendor is not otherwise debarred.

~~(D)~~ (E) The director, through the office of procurement services, shall maintain a list of all vendors currently debarred under this section.

Sec. 153.02. (A) The executive director of the Ohio facilities construction commission, may debar a contractor from contract awards for public improvements as referred to in section 153.01 of the Revised Code, or for projects as defined in section 3318.01 of the Revised Code, upon proof that the contractor has done any of the following:

(1) Defaulted on a contract requiring the execution of a takeover agreement as set forth in division (B) of section

153.17 of the Revised Code;	103
(2) Knowingly failed during the course of a contract to maintain the coverage required by the bureau of workers' compensation;	104 105 106
(3) Knowingly failed during the course of a contract to maintain the contractor's drug-free workplace program as required by the contract;	107 108 109
(4) Knowingly failed during the course of a contract to maintain insurance required by the contract or otherwise by law, resulting in a substantial loss to the owner, as owner is referred to in section 153.01 of the Revised Code, or to the commission and school district board, as provided in division (F) of section 3318.08 of the Revised Code;	110 111 112 113 114 115
(5) Misrepresented the firm's qualifications in the selection process set forth in sections 153.65 to 153.71 or section 3318.10 of the Revised Code;	116 117 118
(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the contractor's business integrity;	119 120 121 122 123 124
(7) Been convicted of a criminal offense under state or federal antitrust laws;	125 126
(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;	127 128 129
(9) Been debarred from bidding on or participating in a	130

contract with any state or federal agency.	131
(B) <u>The executive director of the Ohio facilities</u>	132
<u>construction commission shall debar a contractor from contract</u>	133
<u>awards for public improvements as referred to in section 153.01</u>	134
<u>of the Revised Code, or for projects as defined in section</u>	135
<u>3318.01 of the Revised Code, upon proof that the contractor has</u>	136
<u>done any of the following:</u>	137
(1) <u>Attempted to influence a public employee to breach</u>	138
<u>ethical conduct standards or to influence a contract award;</u>	139
(2) <u>Colluded to restrain competition by any means;</u>	140
(3) <u>Been convicted of, or pleaded guilty to a charge of, a</u>	141
<u>criminal offense under state or federal antitrust laws;</u>	142
(4) <u>Been convicted under, or pleaded guilty to a violation</u>	143
<u>of, state or federal corruption laws, including a criminal</u>	144
<u>offense related to bribery;</u>	145
(5) <u>Been convicted, or pleaded guilty to a violation, of a</u>	146
<u>criminal offense related to the application for or performance</u>	147
<u>of any public or private contract, including, but not limited</u>	148
<u>to, embezzlement, theft, forgery, falsification or destruction</u>	149
<u>of records, receiving stolen property, and any other offense</u>	150
<u>that directly reflects on the contractor's business integrity;</u>	151
(6) <u>Deliberately or willfully submitted false or</u>	152
<u>misleading information in connection with the application for or</u>	153
<u>performance of a public contract;</u>	154
(7) <u>Admitted to a violation of section 2923.32 of the</u>	155
<u>Revised Code in any civil proceeding or in a settlement</u>	156
<u>agreement related to the application for or performance of any</u>	157
<u>public or private contract, including, but not limited to,</u>	158

embezzlement, theft, forgery, falsification or destruction of 159
records, receiving stolen property, and any other offense that 160
directly reflects on the vendor's business integrity. 161

(C) When the executive director debar a contractor that 162
is a partnership, association, or corporation, the executive 163
director also may debar any partner of the partnership or any 164
officer or director of the association or corporation, as 165
applicable. 166

~~(C)~~ (D) When the executive director reasonably believes 167
that grounds for debarment exist, the executive director shall 168
send the contractor a notice of proposed debarment indicating 169
the grounds for the proposed debarment and the procedure for 170
requesting a hearing on the proposed debarment. The hearing 171
shall be conducted in accordance with Chapter 119. of the 172
Revised Code. If the contractor does not respond with a request 173
for a hearing in the manner specified in Chapter 119. of the 174
Revised Code, the executive director shall issue the debarment 175
decision without a hearing and shall notify the contractor of 176
the decision by certified mail, return receipt requested. 177

~~(D)~~ (E) The executive director shall determine the length 178
of the debarment period ~~and~~, which shall be for not less than 179
one year and not more than three years. The executive director 180
may rescind the a debarment administered under division (A) of 181
this section at any time upon notification to the contractor. 182
During the period of debarment, the contractor is not eligible 183
to bid for or participate in any contract for a public 184
improvement as referred to in section 153.01 of the Revised Code 185
or for a project as defined in section 3318.01 of the Revised 186
Code. After the debarment period expires, the contractor may be 187
eligible to bid for and participate in such contracts if the 188

vendor is not otherwise debarred. 189

~~(E)~~ (F) The executive director shall maintain a list of 190
all contractors currently debarred under this section. Any 191
governmental entity awarding a contract for construction of a 192
public improvement or project may use a contractor's presence on 193
the debarment list to determine whether a contractor is 194
responsible or best under section 9.312 or any other section of 195
the Revised Code in the award of a contract. 196

~~(F)~~ (G) As used in this section, "contractor" means a 197
construction contracting business, a subcontractor of a 198
construction contracting business, a supplier of materials, or a 199
manufacturer of materials. 200

Sec. 5513.06. (A) The director of transportation may debar 201
a vendor from consideration for contract awards upon a finding 202
based upon a reasonable belief that the vendor has done any of 203
the following: 204

(1) Abused the solicitation process by repeatedly 205
withdrawing bids before purchase orders or contracts are issued 206
or failing to accept orders based upon firm bids; 207

(2) Failed to substantially perform a contract according 208
to its terms, conditions, and specifications within specified 209
time limits; 210

(3) Failed to cooperate in monitoring contract performance 211
by refusing to provide information or documents required in a 212
contract, failed to respond and correct matters related to 213
complaints to the vendor, or accumulated repeated justified 214
complaints regarding performance of a contract; 215

(4) ~~Attempted to influence a public employee to breach~~ 216
~~ethical conduct standards;~~ 217

(5) Colluded with other bidders to restrain competition by any means;	218 219
(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the vendor's business integrity;	220 221 222 223 224 225
(7) Been convicted under state or federal antitrust laws;	226
(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;	227 228 229
(9) Has been debarred by a state agency, another state, or by any agency or department of the federal government;	230 231
(10) (5) Violated any other responsible business practice or performed in an unsatisfactory manner as determined by the director.	232 233 234
(B) <u>The director of transportation shall debar a vendor from consideration for contract awards upon a finding based upon a reasonable belief that the vendor has done any of the following:</u>	235 236 237 238
<u>(1) Attempted to influence a public employee to breach ethical conduct standards;</u>	239 240
<u>(2) Colluded with other bidders to restrain competition by any means;</u>	241 242
<u>(3) Been convicted under, or pleaded guilty to a violation of, state or federal antitrust laws;</u>	243 244

(4) Been convicted under, or pleaded guilty to a violation 245
of, state or federal corruption laws, including a criminal 246
offense related to bribery; 247

(5) Been convicted, or pleaded guilty to a violation, of a 248
criminal offense related to the application for or performance 249
of any public or private contract, including, but not limited 250
to, embezzlement, theft, forgery, falsification or destruction 251
of records, receiving stolen property, and any other offense 252
that directly reflects on the vendor's business integrity; 253

(6) Deliberately or willfully submitted false or 254
misleading information in connection with the application for or 255
performance of a public contract; 256

(7) Admitted to a violation of section 2923.32 of the 257
Revised Code in any civil proceeding or in a settlement 258
agreement related to the application for or performance of any 259
public or private contract, including, but not limited to, 260
embezzlement, theft, forgery, falsification or destruction of 261
records, receiving stolen property, and any other offense that 262
directly reflects on the vendor's business integrity. 263

(C) When the director reasonably believes that grounds for 264
debarment exist, the director shall send the vendor a notice of 265
proposed debarment. If the vendor is a partnership, association, 266
or corporation, the director also may debar from consideration 267
for contract awards any partner of the partnership, or the 268
officers and directors of the association or corporation, being 269
debarred. When the director reasonably believes that grounds for 270
debarment exist, the director shall send the individual involved 271
a notice of proposed debarment. A notice of proposed debarment 272
shall indicate the grounds for the debarment of the vendor or 273
individual and the procedure for requesting a hearing. The 274

notice and hearing shall be in accordance with Chapter 119. of 275
the Revised Code. If the vendor or individual does not respond 276
with a request for a hearing in the manner specified in Chapter 277
119. of the Revised Code, the director shall issue the debarment 278
decision without a hearing and shall notify the vendor or 279
individual of the decision by certified mail, return receipt 280
requested. ~~The~~ 281

~~debarment period may be of any length determined by the~~ 282
~~director and the~~ (D) The director shall determine the length of 283
the debarment period, which shall be for not less than one year 284
and not more than three years. The director may modify or 285
rescind the a debarment administered under division (A) of this 286
section at any time. During the period of debarment, the 287
director shall not include on a bidder list or consider for a 288
contract award any partnership, association, or corporation 289
affiliated with a debarred individual. After the debarment 290
period expires, the vendor or individual, and any partnership, 291
association, or corporation affiliated with the individual, may 292
reapply for inclusion on bidder lists through the regular 293
application process if such entity or individual is not 294
otherwise debarred. 295

Section 2. That existing sections 125.25, 153.02, and 296
5513.06 of the Revised Code are hereby repealed. 297