

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 510

Representatives Fraizer, Ray

A BILL

To amend sections 9.242, 125.25, 153.02, and 1
5513.06 and to enact sections 109.38 and 2323.59 2
of the Revised Code to allow the Attorney 3
General to debar a state vendor. 4

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

Section 1. That sections 9.242, 125.25, 153.02, and 5
5513.06 be amended and sections 109.38 and 2323.59 of the 6
Revised Code be enacted to read as follows: 7

Sec. 9.242. (A) As used in this section: 8

(1) "State agency" has the meaning defined in section 1.60 9
of the Revised Code. 10

(2) "State contract" means any contract for goods, 11
services, or construction that is paid for in whole or in part 12
with state funds. A state contract is considered to be awarded 13
when it is entered into or executed, regardless of whether the 14
parties to the contract have exchanged any money. 15

(3) "Participate" means to respond to any solicitation or 16
procurement issued by a state agency or be the recipient of an 17
award of a state contract, or to provide any goods or services 18

to any state agency. 19

(B) No vendor who has been debarred by any the attorney 20
general, a state agency, or a court of common pleas shall 21
participate in any state contract during the period of 22
debarment. After the debarment period expires, the vendor may be 23
eligible to respond to any solicitation or procurement, provide 24
goods or services to, and be awarded contracts by state agencies 25
if the vendor is not otherwise listed on a list of debarred 26
vendors applicable to state contracts. 27

(C) State agencies shall exclude any vendor debarred under 28
~~sections~~ section 125.25, 153.02, 2323.59, or 5513.06 of the 29
Revised Code, or any other section of the Revised Code from 30
participating in state contracts. 31

Sec. 109.38. (A) The attorney general may debar a vendor 32
as provided in section 125.25, 153.02, or 5513.06 of the Revised 33
Code. 34

The authority of the attorney general to debar a vendor is 35
concurrent to the authority of the director of administrative 36
services, the executive director of the Ohio facilities 37
construction commission, and the director of transportation to 38
debar a vendor under those sections, respectively. 39

(B) The attorney general may request that a court of 40
common pleas debar a vendor as remedy in a civil action or 41
proceeding, as provided in section 2323.59 of the Revised Code. 42

Sec. 125.25. (A) The attorney general or director of 43
administrative services may debar a vendor from consideration 44
for contract awards upon a finding based upon a reasonable 45
belief that the vendor has done any of the following: 46

(1) Abused the selection process by repeatedly withdrawing 47

bids or proposals before purchase orders or contracts are issued	48
or failing to accept orders based upon firm bids;	49
(2) Failed to substantially perform a contract according	50
to its terms, conditions, and specifications within specified	51
time limits;	52
(3) Failed to cooperate in monitoring contract performance	53
by refusing to provide information or documents required in a	54
contract, failed to respond to complaints to the vendor, or	55
accumulated repeated justified complaints regarding performance	56
of a contract;	57
(4) Attempted to influence a public employee to breach	58
ethical conduct standards or to influence a contract award;	59
(5) Colluded to restrain competition by any means;	60
(6) Been convicted of a criminal offense related to the	61
application for or performance of any public or private	62
contract, including, but not limited to, embezzlement, theft,	63
forgery, bribery, falsification or destruction of records,	64
receiving stolen property, and any other offense that directly	65
reflects on the vendor's business integrity;	66
(7) Been convicted under state or federal antitrust laws;	67
(8) Deliberately or willfully submitted false or	68
misleading information in connection with the application for or	69
performance of a public contract;	70
(9) Violated any other responsible business practice or	71
performed in an unsatisfactory manner as determined by the	72
<u>attorney general or director;</u>	73
(10) Through the default of a contract or through other	74
means had a determination of unresolved finding for recovery by	75

the auditor of state under section 9.24 of the Revised Code; 76

(11) Acted in such a manner as to be debarred from 77
participating in a contract with any governmental agency. 78

(B) When the attorney general or director reasonably 79
believes that grounds for debarment exist, the attorney general 80
or director shall send the vendor a notice of proposed debarment 81
indicating the grounds for the proposed debarment and the 82
procedure for requesting a hearing on the proposed debarment. 83
The hearing shall be conducted in accordance with Chapter 119. 84
of the Revised Code. If the vendor does not respond with a 85
request for a hearing in the manner specified in Chapter 119. of 86
the Revised Code, the attorney general or director shall issue 87
the debarment decision without a hearing and shall notify the 88
vendor of the decision by certified mail, return receipt 89
requested. 90

(C) The attorney general or director shall determine the 91
length of the debarment period and may rescind the debarment at 92
any time upon notification to the vendor. During the period of 93
debarment, the vendor is not eligible to participate in any 94
state contract. After the debarment period expires, the vendor 95
may be eligible to be awarded contracts by state agencies if the 96
vendor is not otherwise debarred. 97

(D) The director, through the office of procurement 98
services, shall maintain a list of all vendors currently 99
debarred under this section. 100

Sec. 153.02. (A) The attorney general or the executive 101
director of the Ohio facilities construction commission, may 102
debar a contractor from contract awards for public improvements 103
as referred to in section 153.01 of the Revised Code or for 104

projects as defined in section 3318.01 of the Revised Code, upon	105
proof that the contractor has done any of the following:	106
(1) Defaulted on a contract requiring the execution of a	107
takeover agreement as set forth in division (B) of section	108
153.17 of the Revised Code;	109
(2) Knowingly failed during the course of a contract to	110
maintain the coverage required by the bureau of workers'	111
compensation;	112
(3) Knowingly failed during the course of a contract to	113
maintain the contractor's drug-free workplace program as	114
required by the contract;	115
(4) Knowingly failed during the course of a contract to	116
maintain insurance required by the contract or otherwise by law,	117
resulting in a substantial loss to the owner, as owner is	118
referred to in section 153.01 of the Revised Code, or to the	119
commission and school district board, as provided in division	120
(F) of section 3318.08 of the Revised Code;	121
(5) Misrepresented the firm's qualifications in the	122
selection process set forth in sections 153.65 to 153.71 or	123
section 3318.10 of the Revised Code;	124
(6) Been convicted of a criminal offense related to the	125
application for or performance of any public or private	126
contract, including, but not limited to, embezzlement, theft,	127
forgery, bribery, falsification or destruction of records,	128
receiving stolen property, and any other offense that directly	129
reflects on the contractor's business integrity;	130
(7) Been convicted of a criminal offense under state or	131
federal antitrust laws;	132

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

(9) Been debarred from bidding on or participating in a contract with any state or federal agency.

(B) When the attorney general or executive director debars a contractor that is a partnership, association, or corporation, the attorney general or executive director also may debar any partner of the partnership or any officer or director of the association or corporation, as applicable.

(C) When the attorney general or executive director reasonably believes that grounds for debarment exist, the attorney general or executive director shall send the contractor 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 contractor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the attorney general or executive director shall issue the debarment decision without a hearing and shall notify the contractor of the decision by certified mail, return receipt requested.

(D) The attorney general or executive director shall determine the length of the debarment period and may rescind the debarment at any time upon notification to the contractor. During the period of debarment, the contractor is not eligible to bid for or participate in any contract for a public improvement as referred to in section 153.01 of the Revised Code or for a project as defined in section 3318.01 of the Revised Code. After the debarment period expires, the contractor may be

eligible to bid for and participate in such contracts if the 163
vendor is not otherwise debarred. 164

(E) The executive director shall maintain a list of all 165
contractors currently debarred under this section. Any 166
governmental entity awarding a contract for construction of a 167
public improvement or project may use a contractor's presence on 168
the debarment list to determine whether a contractor is 169
responsible or best under section 9.312 or any other section of 170
the Revised Code in the award of a contract. 171

(F) As used in this section, "contractor" means a 172
construction contracting business, a subcontractor of a 173
construction contracting business, a supplier of materials, or a 174
manufacturer of materials. 175

Sec. 2323.59. In a civil action or proceeding between the 176
attorney general and a vendor, upon request of the attorney 177
general, the court may debar a vendor from consideration for 178
state contract awards as a remedy in the civil action or 179
proceeding. The court shall consider whether the debarment is in 180
the public interest. 181

The court shall determine the length of the debarment 182
period and may rescind the debarment at any time upon 183
notification to the vendor. The vendor is not eligible to bid 184
for or participate in any state contract during the period of 185
debarment. After the debarment period expires, the vendor may be 186
eligible to bid for and participate in such contracts if the 187
vendor is not otherwise debarred. 188

The attorney general shall maintain a list of all vendors 189
currently debarred under this section. 190

Sec. 5513.06. (A) The attorney general or the director of 191

transportation may debar a vendor from consideration for	192
contract awards upon a finding based upon a reasonable belief	193
that the vendor has done any of the following:	194
(1) Abused the solicitation process by repeatedly	195
withdrawing bids before purchase orders or contracts are issued	196
or failing to accept orders based upon firm bids;	197
(2) Failed to substantially perform a contract according	198
to its terms, conditions, and specifications within specified	199
time limits;	200
(3) Failed to cooperate in monitoring contract performance	201
by refusing to provide information or documents required in a	202
contract, failed to respond and correct matters related to	203
complaints to the vendor, or accumulated repeated justified	204
complaints regarding performance of a contract;	205
(4) Attempted to influence a public employee to breach	206
ethical conduct standards;	207
(5) Colluded with other bidders to restrain competition by	208
any means;	209
(6) Been convicted of a criminal offense related to the	210
application for or performance of any public or private	211
contract, including, but not limited to, embezzlement, theft,	212
forgery, bribery, falsification or destruction of records,	213
receiving stolen property, and any other offense that directly	214
reflects on the vendor's business integrity;	215
(7) Been convicted under state or federal antitrust laws;	216
(8) Deliberately or willfully submitted false or	217
misleading information in connection with the application for or	218
performance of a public contract;	219

(9) Has been debarred by a state agency, another state, or 220
by any agency or department of the federal government; 221

(10) Violated any other responsible business practice or 222
performed in an unsatisfactory manner as determined by the 223
attorney general or director. 224

(B) When the attorney general or director reasonably 225
believes that grounds for debarment exist, the attorney general 226
or director shall send the vendor a notice of proposed 227
debarment. If the vendor is a partnership, association, or 228
corporation, the attorney general or director also may debar 229
from consideration for contract awards any partner of the 230
partnership, or the officers and directors of the association or 231
corporation, being debarred. When the attorney general or 232
director reasonably believes that grounds for debarment exist, 233
the attorney general or director shall send the individual 234
involved a notice of proposed debarment. A notice of proposed 235
debarment shall indicate the grounds for the debarment of the 236
vendor or individual and the procedure for requesting a hearing. 237
The notice and hearing shall be in accordance with Chapter 119. 238
of the Revised Code. If the vendor or individual does not 239
respond with a request for a hearing in the manner specified in 240
Chapter 119. of the Revised Code, the attorney general or 241
director shall issue the debarment decision without a hearing 242
and shall notify the vendor or individual of the decision by 243
certified mail, return receipt requested. ~~The~~ 244

(C) The debarment period may be of any length determined 245
by the attorney general or director and the attorney general or 246
director may modify or rescind the debarment at any time. During 247
the period of debarment, the director shall not include on a 248
bidder list or consider for a contract award any partnership, 249

association, or corporation affiliated with a debarred 250
individual. After the debarment period expires, the vendor or 251
individual, and any partnership, association, or corporation 252
affiliated with the individual, may reapply for inclusion on 253
bidder lists through the regular application process if such 254
entity or individual is not otherwise debarred. 255

Section 2. That existing sections 9.242, 125.25, 153.02, 256
and 5513.06 of the Revised Code are hereby repealed. 257