

AMENDED IN SENATE AUGUST 31, 2010
AMENDED IN SENATE AUGUST 4, 2010
AMENDED IN SENATE AUGUST 2, 2010
AMENDED IN SENATE JULY 1, 2010
AMENDED IN SENATE JUNE 23, 2010
AMENDED IN ASSEMBLY APRIL 27, 2010
AMENDED IN ASSEMBLY APRIL 13, 2010
AMENDED IN ASSEMBLY FEBRUARY 23, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1650

**Introduced by Assembly Members Feuer, Blumenfield, and
Huffman**

**(Coauthors: Assembly Members Anderson, Bass, Block, De León,
Hill, Jones, Lieu, Miller, John A. Pérez, Portantino, Silva, and
Tran)**

(Coauthors: Senators Leno, Padilla, Pavley, and Price)

January 13, 2010

An act to add Chapter 2.7 (commencing with Section 2200) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1650, as amended, Feuer. Public contracts: state and local contract eligibility: energy sector investment activities in Iran.

Existing law sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by public entities.

The federal Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which became Public Law 111-195 on July 1, 2010, authorizes a state or local government to adopt and enforce measures meeting certain requirements, to divest the assets of the state or local government from, or prohibit the investment of those assets in, any person that the state or local government, using credible information available to the public, determines to be engaged in investment activities in Iran. The federal act specifies that an investment includes the entry into or renewal of a contract for goods or services, and that such a measure is not preempted by any federal law or regulation.

Pursuant to this authority, this bill would prohibit a person that provides goods or services of \$20,000,000 or more in the energy sector of Iran, as identified on a list created by the Department of General Services, or a financial institution that extends \$20,000,000 or more in credit to such a person, from bidding on or entering into or renewing a contract for goods or services of \$1,000,000 or more with a public entity.

This bill would, by June 1, 2011, require the Department of General Services to, using credible information available to the public, develop, or contract to develop, a list of persons it determines provide goods or services of \$20,000,000 or more in the energy sector of Iran. This bill would, before a person is included on the list, require the Department of General Services to provide 90 days' written notice of its intent to include the person on the list and to inform the person that inclusion on the list would make the person ineligible to bid on, submit a proposal for, or enter into or renew, a contract for goods and services of \$1,000,000 or more with a public entity, and would require the department to provide the person with an opportunity to comment in writing that it is not engaged in investment activities in Iran.

This bill would require a prospective bidder for those contracts to certify that it is not identified on a list created by the Department of General Services, or a financial institution that extends \$20,000,000 or more in credit to such a person, as provided, and would impose penalties, as specified, for a person that provides a false certification. This bill would require a local public entity, or the Department of General Services in the case of state contracts, to provide a person with 90 days' written notice and an opportunity to comment in writing before the penalties are imposed. The bill would allow a public entity, under specified conditions, to permit a person engaged in investment activities

in Iran to be eligible for, to bid on, submit a proposal for, or enter into or renew, a contract for goods or services.

This bill would preempt any law, ordinance, rules, or regulation of any local public entity involving contracts for goods or services of \$1,000,000 or more with a person engaged in investment activities in Iran.

~~Pursuant to this authority, this bill would 90 days after the effective date of this bill, prohibit a person that is engaged in investment activities in Iran, as described, from bidding on or entering into or renewing a contract with a state agency for goods or services or a contract with a local public entity for goods or services of \$1,000,000 or more. The bill would require a prospective bidder for those contracts to certify, after exercising due diligence, that it is not engaged in investment activities in Iran and would impose penalties, as specified, for a person that provides a false certification and did not exercise due diligence, as provided. This bill would require an awarding body to give reasonable notice, and hearing if requested, before the penalties are imposed. This bill would impose the penalties on a person that provides a false certification but exercised due diligence, unless the person has ceased or ceases its engagement in investment activities in Iran, as specified.~~

~~This bill would, 90 days after the effective date of this bill, for a pending bid or contract proposal, or for a contract for which no false certification was made, require the awarding body, if the awarding body determines, using credible information available to the public, that a person is a person that engages in investment activities in Iran, to provide 90 days' written notice of its intent not to enter into or renew a contract for goods or services with the person and would require the awarding body to provide a person that is alleged to be engaged in investment activities in Iran with an opportunity to comment in writing that it is not engaged in those activities.~~

~~This bill would make legislative findings and declarations regarding a statewide concern.~~

~~This bill would become inoperative upon the date that federal authorization ceases.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.7 (commencing with Section 2200) is
2 added to Part 1 of Division 2 of the Public Contract Code, to read:

3

4

CHAPTER 2.7. IRAN CONTRACTING ACT OF 2010

5

6 2200. This chapter shall be known and may be cited as the Iran
7 Contracting Act of 2010.

8 2201. The Legislature hereby finds and declares all of the
9 following:

10 (a) In imposing United States sanctions on Iran, Congress and
11 the President have determined that the illicit nuclear activities of
12 the Government of Iran, combined with its development of
13 unconventional weapons and ballistic missiles, and its support of
14 international terrorism, represent a serious threat to the security
15 of the United States, Israel, and other United States allies in Europe,
16 the Middle East, and around the world.

17 (b) On September 9, 2009, it was reported that American
18 intelligence agencies have concluded that Iran has already created
19 enough nuclear fuel to develop a nuclear weapon, and United States
20 Ambassador to the International Atomic Energy Agency Glyn
21 Davies declared that Iran had achieved “possible breakout
22 capacity.”

23 (c) On September 21, 2009, Iran sent a letter to the International
24 Atomic Energy Agency acknowledging that it is considering a
25 previously undeclared “new pilot fuel enrichment plan.”

26 (d) On Sept. 25, 2009, President Barack H. Obama, joined by
27 Prime Minister Gordon Brown of Britain and President Nicolas
28 Sarkozy of France, stated that the secret plant “represents a direct
29 challenge to the basic foundation of the nonproliferation regime”
30 and “deepens a growing concern that Iran is refusing to live up to
31 those international responsibilities, including specifically revealing
32 all nuclear-related activities. As the international community
33 knows, this is not the first time that Iran has concealed information
34 about its nuclear program.”

35 (e) The International Atomic Energy Agency has repeatedly
36 called attention to Iran’s unlawful nuclear activities, and, as a
37 result, the United Nations Security Council has adopted a range
38 of sanctions designed to encourage the Government of Iran to

1 cease those activities and comply with its obligations under the
2 Treaty on the Non-Proliferation of Nuclear Weapons (commonly
3 known as the “Nuclear Non-Proliferation Treaty”).

4 (f) On July 1, 2010, President Barack Obama signed into law
5 H.R. 2194, the “Comprehensive Iran Sanctions, Accountability,
6 and Divestment Act of 2010” (Public Law 111-195), which
7 expressly authorizes states and local governments to prevent
8 investment in, including prohibiting entry into or renewing
9 contracts with, companies operating in Iran’s energy sector with
10 investments that have the result of directly or indirectly supporting
11 the efforts of the Government of Iran to achieve nuclear weapons
12 capability.

13 (g) On October 7, 2008, then-Senator Obama stated, “Iran right
14 now imports gasoline, even though it’s an oil producer, because
15 its oil infrastructure has broken down. If we can prevent them from
16 importing the gasoline that they need and the refined petroleum
17 products, that starts changing their cost-benefit analysis. That starts
18 putting the squeeze on them.”

19 (h) The serious and urgent nature of the threat from Iran
20 demands that states, local governments, educational institutions,
21 and private institutions work together with the federal government
22 and American allies to do everything possible diplomatically,
23 politically, and economically to prevent Iran from acquiring a
24 nuclear weapons capability.

25 (i) There are moral and reputational reasons for this state and
26 local governments to not engage in business with foreign
27 companies that have business activities benefiting foreign states,
28 such as Iran, that commit egregious violations of human rights,
29 proliferate nuclear weapons capabilities, and support terrorism.

30 (j) It is the responsibility of the state to decide how, where, and
31 by whom its financial resources should be invested. It also is the
32 prerogative of the state to not invest in, or do business with,
33 companies whose investments with Iran place those companies at
34 risk from the impact of economic sanctions imposed upon the
35 Government of Iran for sponsoring terrorism, committing egregious
36 violations of human rights, and engaging in illicit nuclear weapons
37 development.

38 (k) The human rights situation in Iran has steadily deteriorated
39 in 2009, as punctuated by transparently fraudulent elections and

1 the brutal repression and murder, arbitrary arrests, and show trials
2 of peaceful dissidents.

3 (l) During the postelection protests in June 2009, the Iranian
4 government imposed widespread and unjustifiable restrictions on
5 telecommunications services, denying the citizens of Iran their
6 rights and liberties to free speech.

7 (m) On October 14, 2007, Governor Arnold Schwarzenegger
8 stated his intention to support “efforts to further prevent terrorism”
9 when signing Assembly Bill 221, which prohibits the state’s
10 pension funds from investing in companies with active business
11 in Iran.

12 (n) This state currently honors contracts with foreign companies
13 that may be at financial risk due to business ties with foreign states,
14 such as Iran, that are involved in the proliferation of weapons of
15 mass destruction, commit human rights violations, and support
16 terrorism.

17 (o) The concerns of the State of California regarding Iran are
18 strictly the result of the actions of the Government of Iran.

19 (p) The people of the State of California declare all of the
20 following:

21 (1) We have feelings of friendship for the people of Iran.

22 (2) We regret that developments in recent decades have created
23 impediments to that friendship.

24 (3) We hold the people of Iran, their culture, and their ancient
25 and rich history in the highest esteem.

26 (q) In order to effectively address the need for the governments
27 of this state to respond to the policies of Iran in a uniform fashion,
28 prohibiting contracts with persons engaged in investment activities
29 in the energy sector of Iran must be accomplished on a statewide
30 basis, and, therefore, the subject is a matter of statewide concern
31 rather than a municipal affair.

32 (r) *It is the intent of the Legislature to implement the authority*
33 *granted under Section 202 of the Comprehensive Iran Sanctions,*
34 *Accountability, and Divestment Act of 2010 (Public Law 111-195).*

35 2202. As used in this chapter, the following definitions apply:

36 (a) “Awarding body” means a department, board, agency,
37 authority, or officer, agent, or other authorized representative of
38 the public entity awarding a contract for goods or services.

39 (b) “Energy sector” of Iran means activities to develop
40 petroleum or natural gas resources or nuclear power in Iran.

1 (c) “Financial institution” means the term as used in Section 14
2 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C.
3 1701 note).

4 (d) “Iran” includes the Government of Iran and any agency or
5 instrumentality of Iran.

6 (e) “Person” means any of the following:

7 (1) A natural person, corporation, company, limited liability
8 company, business association, partnership, society, trust, or any
9 other nongovernmental entity, organization, or group.

10 (2) Any governmental entity or instrumentality of a government,
11 including a multilateral development institution, as defined in
12 Section 1701(c)(3) of the International Financial Institutions Act
13 (22 U.S.C. 262r(c)(3)).

14 (3) Any successor, subunit, parent entity, or subsidiary of, or
15 any entity under common ownership or control with, any entity
16 described in paragraph (1) or (2).

17 2202.5. For purposes of this chapter, a person engages in
18 investment activities in Iran if any of the following is true:

19 ~~(a) The person has an investment of twenty million dollars~~

20 *(a) The person provides goods or services of twenty million*
21 *dollars (\$20,000,000) or more in the energy sector of Iran,*
22 *including in a person that provides oil or liquefied natural gas*
23 *tankers, or products used to construct or maintain pipelines used*
24 *to transport oil or liquefied natural gas, for the energy sector of*
25 *Iran.*

26 (b) The person is a financial institution that extends twenty
27 million dollars (\$20,000,000) or more in credit to another person,
28 for 45 days or more, if that person will use the credit to ~~invest in~~
29 ~~the energy sector of Iran.~~ *provide goods or services in the energy*
30 *sector in Iran and is identified on a list created pursuant to*
31 *subdivision (b) of Section 2203 as a person engaging in investment*
32 *activities in Iran as described in subdivision (a).*

33 ~~2203. (a) A person that engages in investment activities in~~
34 ~~Iran is ineligible to, and shall not, bid on, submit a proposal for,~~
35 ~~or enter into or renew, a contract with a state agency for goods or~~
36 ~~services or a contract with a local public entity for goods or services~~
37 ~~of one million dollars (\$1,000,000) or more.~~

38 ~~(b) The prohibition described in subdivision (a) applies on and~~
39 ~~after the date that is 90 days after the effective date of this act.~~

1 2203. (a) (1) A person that, at the time of bid or proposal for
2 a new contract or renewal of an existing contract, is identified on
3 a list created pursuant to subdivision (b) as a person engaging in
4 investment activities in Iran as described in subdivision (a) of
5 Section 2202.5, is ineligible to, and shall not, bid on, submit a
6 proposal for, or enter into or renew, a contract with a public entity
7 for goods or services of one million dollars (\$1,000,000) or more.

8 (2) A person that, at the time of bid or proposal for a new
9 contract or renewal of an existing contract, engages in investment
10 activities in Iran as described in subdivision (b) of Section 2202.5,
11 is ineligible to, and shall not, bid on, submit a proposal for, or
12 enter into or renew, a contract with a public entity for goods or
13 services of one million dollars (\$1,000,000) or more.

14 (b) (1) By June 1, 2011, the Department of General Services
15 shall, using credible information available to the public, develop,
16 or contract to develop, a list of persons it determines engage in
17 investment activities in Iran as described in subdivision (a) of
18 Section 2202.5.

19 (2) The Department of General Services shall update the list
20 every 180 days.

21 (3) Before finalizing an initial list pursuant to paragraph (1)
22 or on updated list pursuant to paragraph (2), the Department of
23 General Services shall do all of the following before a person is
24 included on the list:

25 (A) Provide 90 days' written notice of its intent to include the
26 person on the list. The notice shall inform the person that inclusion
27 on the list would make the person ineligible to bid on, submit a
28 proposal for, or enter into or renew, a contract for goods or
29 services of one million dollars (\$1,000,000) or more with a public
30 entity. The notice shall specify that the person, if it ceases its
31 engagement in investment activities in Iran as described in
32 subdivision (a) of Section 2202.5, may become eligible for a future
33 contract, or contract renewal, for goods or services of one million
34 dollars (\$1,000,000) or more with a public entity upon removal
35 from the list.

36 (B) The Department of General Services shall provide a person
37 with an opportunity to comment in writing to the Department of
38 General Services that it is not engaged in investment activities in
39 Iran. If the person demonstrates to the Department of General
40 Services that the person is not engaged in investment activities in

1 *Iran as described in subdivision (a) of Section 2202.5, the person*
2 *shall not be included on the list, and shall be eligible to enter into*
3 *or renew a contract for goods or services of one million dollars*
4 *(\$1,000,000) or more with a public entity, unless the person is*
5 *otherwise ineligible to bid on a contract as described in paragraph*
6 *(3) of subdivision (a) of Section 2205.*

7 *(4) The Department of General Services shall make every effort*
8 *to avoid erroneously including a person on the list.*

9 *(5) The Department of General Services may assess a fee upon*
10 *persons that use this list to comply with the provisions of this act,*
11 *in order to pay for the necessary, actual costs of creating and*
12 *maintaining this list. The Department of General Services shall*
13 *provide the list free of charge to any public entity and to the*
14 *Legislature, upon request.*

15 *(6) A person that has a contract with CalPERS or CalSTRS, or*
16 *both, shall not be deemed a person that engages in investment*
17 *activities in Iran on the basis of those investments with CalPERS*
18 *or CalSTRS.*

19 *(c) Notwithstanding subdivision (a), a public entity may permit*
20 *a person engaged in investment activities in Iran, on a case-by-case*
21 *basis, to be eligible for, or to bid on, submit a proposal for, or*
22 *enter into or renew, a contract for goods or services of one million*
23 *dollars (\$1,000,000) or more with a public entity if either of the*
24 *following are true:*

25 *(1) All of the following occur:*

26 *(A) The investment activities in Iran were made before July 1,*
27 *2010.*

28 *(B) The investment activities in Iran have not been expanded*
29 *or renewed after July 1, 2010.*

30 *(C) The awarding body determines that it is in the best interest*
31 *of the state or local public entity to contract with the person. For*
32 *purposes of state contracts for goods or services of one million*
33 *dollars (\$1,000,000) or more, “awarding body” means the*
34 *Department of General Services. For purposes of local contracts*
35 *for goods or services of one million dollars (\$1,000,000) or more,*
36 *“awarding body” means the representative of the local public*
37 *entity awarding the contract, as described in subdivision (a) of*
38 *Section 2202.*

1 (D) *The person has adopted, publicized, and is implementing*
 2 *a formal plan to cease the investment activities in Iran and to*
 3 *refrain from engaging in any new investments in Iran.*

4 (2) *One of the following occurs:*

5 (A) *For a contract for goods or services of one million dollars*
 6 *(\$1,000,000) or more with a local public entity, the local public*
 7 *entity makes a public finding that, absent such an exemption, the*
 8 *local public entity would be unable to obtain the goods or services*
 9 *for which the contract is offered.*

10 (B) *For a contract for goods or services of one million dollars*
 11 *(\$1,000,000) or more with a state agency, other than the office of*
 12 *a state constitutional officer, the Governor makes a public finding*
 13 *that absent such an exemption, the state agency would be unable*
 14 *to obtain the goods or services for which the contract is offered.*

15 (C) *For a contract for goods or services of one million dollars*
 16 *(\$1,000,000) or more with an office of a state constitutional officer,*
 17 *if the state constitutional officer makes a public finding that, absent*
 18 *such an exemption, his or her office would be unable to obtain the*
 19 *goods or services for which the contract is offered.*

20 (d) *Notwithstanding subdivision (a), a public entity shall permit*
 21 *a financial institution described in subdivision (b) of Section 2202.5*
 22 *to be eligible for, or to bid on, submit a proposal for, or enter into*
 23 *or renew, a contract for goods or services of one million dollars*
 24 *(\$1,000,000) or more with a public entity if the person using the*
 25 *credit to provide goods or services in the energy sector of Iran is*
 26 *a person permitted to submit a bid or proposal to the public entity*
 27 *pursuant to subdivision (c).*

28 (e) *The prohibition described in paragraph (1) of subdivision*
 29 *(a) applies on and after June 1, 2011. The prohibition described*
 30 *in paragraph (2) of subdivision (a) applies on and after July 1,*
 31 *2011.*

32 ~~2204. (a) A state agency or local public entity shall require a~~
 33 ~~person that submits a bid or proposal to, or otherwise proposes to~~
 34 ~~enter into or renew a contract with, a state agency or local public~~
 35 ~~entity with respect to a contract for goods or services described in~~
 36 ~~Section 2203 to certify, after exercising due diligence, that the~~
 37 ~~person does not engage in investment activities in Iran.~~

38 ~~(b) For purposes of this section and Section 2205, a person shall~~
 39 ~~be deemed to have not exercised due diligence if the person knows~~
 40 ~~or should have known that the person is engaged in investment~~

1 ~~activities in Iran after having made an affirmative, reasonable~~
2 ~~inquiry as to the facts and circumstances surrounding the person's~~
3 ~~investments, or if the person fails to make that affirmative,~~
4 ~~reasonable inquiry.~~

5 ~~(e) The certification described in subdivision (a) is required on~~
6 ~~and after the date that is 90 days after the effective date of this act.~~
7 ~~of one million dollars (\$1,000,000) or more to certify, at the time~~
8 ~~the bid is submitted or the contract is renewed, that the person is~~
9 ~~not identified on a list created pursuant to subdivision (b) of~~
10 ~~Section 2203 as a person engaging in investment activities in Iran~~
11 ~~described in subdivision (a) of Section 2202.5, or as a person~~
12 ~~described in subdivision (b) of Section 2202.5, as applicable. A~~
13 ~~state agency shall submit the certification information to the~~
14 ~~Department of General Services.~~

15 ~~(b) A public entity shall not require a person that submits a bid~~
16 ~~or proposal to, or otherwise proposes to enter into a contract with,~~
17 ~~the public entity with respect to a contract for goods or services~~
18 ~~of one million dollars (\$1,000,000) or more to certify that the~~
19 ~~person is not identified on a list created pursuant to subdivision~~
20 ~~(b) of Section 2203 as a person engaging in investment activities~~
21 ~~in Iran described in subdivision (a) of Section 2202.5, or as a~~
22 ~~person described in subdivision (b) of Section 2202.5, as~~
23 ~~applicable, if the person has been permitted to submit a bid or~~
24 ~~proposal to the public entity pursuant to subdivision (c) or (d) of~~
25 ~~Section 2203.~~

26 ~~(c) (1) Subject to paragraph (2), the certification requirement~~
27 ~~described in subdivision (a) applies on and after June 1, 2011.~~

28 ~~(2) A person that is a financial institution shall not be required~~
29 ~~to certify as provided in subdivision (a) until July 1, 2011. For any~~
30 ~~subsequent list created pursuant to subdivision (b) of Section 2203,~~
31 ~~a person that is a financial institution shall not be required to~~
32 ~~certify with respect to that subsequent list until 30 days after that~~
33 ~~list becomes available, but shall certify with respect to the~~
34 ~~immediately prior list for those 30 days.~~

35 ~~2205. (a) (1) If the awarding body determines, using credible~~
36 ~~information available to the public and after providing reasonable~~
37 ~~notice, and a hearing if requested, that a person has submitted a~~
38 ~~false certification under Section 2204 without exercising due~~
39 ~~diligence as described in that section, the following shall apply:~~

1 2205. (a) *If the local public entity, or the Department of*
 2 *General Services in the case of state contracts, determines, using*
 3 *credible information available to the public and after providing*
 4 *90 days written notice and an opportunity to comment in writing*
 5 *for the person to demonstrate that it is not engaged in investment*
 6 *activities in Iran, that the person has submitted a false certification*
 7 *under Section 2204, and the person fails to demonstrate to the*
 8 *local public entity or the Department of General Services that the*
 9 *person has ceased its engagement in the investment activities in*
 10 *Iran within 90 days after the determination of a false certification,*
 11 *the following shall apply:*

12 ~~(A)~~

13 (1) Pursuant to an action under subdivision (b), a civil penalty
 14 in an amount that is equal to the greater of two hundred fifty
 15 thousand dollars (\$250,000) or twice the amount of the contract
 16 for which the false certification was made. *Only one civil penalty*
 17 *may be imposed with respect to one or more certifications made*
 18 *to any public entity that are false as a result of a particular*
 19 *investment.*

20 ~~(B)~~

21 (2) Termination of an existing contract with the awarding body
 22 at the option of the awarding body *or the Department of General*
 23 *Services.*

24 ~~(C)~~

25 (3) Ineligibility to bid on a contract for a period of three years
 26 from the date of the determination that the person submitted the
 27 false certification.

28 ~~(2) (A) If the awarding body determines, using credible~~
 29 ~~information available to the public and after providing reasonable~~
 30 ~~notice, and a hearing if requested, that a person has submitted a~~
 31 ~~false certification under Section 2204 but determines the person~~
 32 ~~has exercised due diligence as described in that section, the~~
 33 ~~awarding body shall provide written notice of its intent to not enter~~
 34 ~~into or renew a contract for goods or services with the person and~~
 35 ~~that the person is subject to the penalties described in~~
 36 ~~subparagraphs (B) and (C) of paragraph (1), unless the person has~~
 37 ~~ceased or ceases its engagement in investment activities in Iran~~
 38 ~~within 90 days. The person may still be subject to subparagraph~~
 39 ~~(C) of paragraph (1) due to a false certification made on another~~
 40 ~~contract.~~

1 ~~(B) If a person described in subparagraph (A) that ceased its~~
2 ~~engagement in investment activities in Iran is awarded the contract~~
3 ~~or contract renewal for which the false certification was made, and~~
4 ~~the awarding body later determines, using credible information~~
5 ~~available to the public and after providing reasonable notice, and~~
6 ~~a hearing if requested, that the person is engaged in investment~~
7 ~~activities in Iran during the term of that contract, the person shall~~
8 ~~be subject to the penalties described in subparagraphs (B) and (C)~~
9 ~~of paragraph (1).~~

10 (b) ~~The awarding body local public entity, or the Department~~
11 ~~of General Services in the case of state contracts, shall report to~~
12 ~~the Attorney General the name of the person that the awarding~~
13 ~~body local public entity, or the Department of General Services~~
14 ~~in the case of state contracts, determines has submitted a false~~
15 ~~certification under Section 2204, together with its information as~~
16 ~~to the false certification, and the Attorney General shall determine~~
17 ~~whether to bring a civil action against the person to collect the~~
18 ~~penalty described in subparagraph (A) of paragraph (1) of~~
19 ~~subdivision (a). The awarding body of a local public entity may~~
20 ~~also report to the city attorney, county counsel, or district attorney~~
21 ~~the name of the person that the awarding body determines has~~
22 ~~submitted a false certification under Section 2204, together with~~
23 ~~its information as to the false certification, and the city attorney,~~
24 ~~county counsel, or district attorney may determine whether to bring~~
25 ~~a civil action against the person to collect the penalty described in~~
26 ~~subparagraph (A) of paragraph (1) of subdivision (a). If it is~~
27 ~~determined in that action that the person submitted a false~~
28 ~~certification, the person shall pay all reasonable costs and fees~~
29 ~~incurred in a civil action, including costs incurred by the awarding~~
30 ~~body for investigations that led to the finding of the false~~
31 ~~certification and all reasonable costs and fees incurred by the~~
32 ~~Attorney General, city attorney, county counsel, or district attorney.~~
33 ~~Only one civil action against the person to collect the penalty~~
34 ~~described in subparagraph (A) of paragraph (1) of subdivision (a)~~
35 ~~may be brought for a false certification on a contract.~~

36 (c) *A civil action to collect the penalties described in paragraph*
37 *(1) of subdivision (a) must commence within three years from the*
38 *date the certification is made.*

1 (d) An unsuccessful bidder, or any other person other than the
2 awarding body, shall have no right to protest the award of a
3 contract or contract renewal on the basis of a false certification.

4 (e) This act does not create, nor authorize, a private right of
5 action or enforcement of the penalties provided for in this act.

6 ~~2206. (a) If the awarding body, using credible information~~
7 ~~available to the public, determines that a person that has an existing~~
8 ~~contract with the awarding body that is not subject to Section 2205,~~
9 ~~or has submitted a pending bid or contract proposal to, or otherwise~~
10 ~~proposes to enter into a contract with, the awarding body, engages~~
11 ~~in investment activities in Iran, the awarding body shall provide~~
12 ~~90 days' written notice of its intent to not enter into or renew a~~
13 ~~contract for goods or services with the person. The notice shall~~
14 ~~specify that the person, if it ceases its engagement in investment~~
15 ~~activities in Iran, may become eligible for a future contract, or~~
16 ~~contract renewal, for goods or services with the awarding body.~~

17 ~~(b) The awarding body shall provide a person with an~~
18 ~~opportunity to comment in writing to the awarding body that it is~~
19 ~~not engaged in investment activities in Iran. If the person~~
20 ~~demonstrates to the awarding body that the person is not engaged~~
21 ~~in investment activities in Iran, the person shall be eligible to enter~~
22 ~~into or renew a contract for goods or services with the awarding~~
23 ~~body, unless the person is otherwise ineligible to bid on a contract~~
24 ~~as described in subparagraph (C) of paragraph (1) of subdivision~~
25 ~~(a) of Section 2205.~~

26 ~~(c) This section shall apply to contracts for goods or services~~
27 ~~with a state agency and contracts for goods or services of one~~
28 ~~million dollars (\$1,000,000) or more with a local public entity~~
29 ~~entered into, or renewed, on and after the date that is 90 days after~~
30 ~~the effective date of this act.~~

31 ~~2206. This act shall occupy the field with regard to all public~~
32 ~~contracts for goods or services with a person engaged in investment~~
33 ~~activities in Iran and shall preempt any law, ordinance, rule, or~~
34 ~~regulation of any local public entity involving public contracts for~~
35 ~~goods or services with a person engaged in investment activities~~
36 ~~in Iran.~~

37 2207. The Legislature shall submit to the Attorney General of
38 the United States a written notice describing this chapter within
39 30 days after the effective date of this act.

1 2208. (a) If any one or more provisions, sections, subdivisions,
 2 sentences, clauses, phrases, or words of this act or the application
 3 thereof to any person or circumstance is found to be invalid, illegal,
 4 unenforceable, or unconstitutional, the same is hereby declared to
 5 be severable and the balance of this act shall remain effective and
 6 functional notwithstanding such invalidity, illegality,
 7 unenforceability, or unconstitutionality.

8 (b) The Legislature hereby declares that it would have passed
 9 this act, and each provision, section, subdivision, sentence, clause,
 10 phrase, or word thereof, irrespective of the fact that any one or
 11 more provisions, sections, subdivisions, sentences, clauses, phrases,
 12 or words are declared invalid, illegal, unenforceable, or
 13 unconstitutional.

14 SEC. 2. Section 1 of this act shall become inoperative upon
 15 the date that federal law ceases to authorize the states to adopt and
 16 enforce the contracting prohibitions of the type provided for in
 17 that section.

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19

20 CORRECTIONS:

21 Text—Page 13.

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