

ASSEMBLY, No. 1771

STATE OF NEW JERSEY

INTRODUCED MARCH 25, 1996

By Assemblyman BATEMAN

1 AN ACT providing for the disqualification and debarment of certain  
2 individuals and business entities from entering into contracts with  
3 State and local government agencies, supplementing Title 52 of the  
4 Revised Statutes and amending various parts of the statutory law.  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) The Legislature finds and declares that:

10 a. The citizens of this State are entitled to expect that all  
11 individuals and businesses contracting to provide goods and services  
12 to all State agencies and local government agencies are honest,  
13 responsible and competent to perform their duties.

14 b. In addition, all parties doing business with State agencies and  
15 local government agencies should have confidence in the integrity of  
16 the competitive bidding process and in the fact that public contracts  
17 are awarded according to a process which is fair and equitable.

18 c. There is a need, therefore, to establish a process whereby  
19 dishonest, irresponsible or incompetent individuals and businesses will  
20 be excluded from contracting with State agencies and local  
21 government agencies but which includes procedural safeguards to  
22 protect contractors from arbitrary exclusion.  
23

24 2. (New section) Sections 1 through 13 of this act shall be known  
25 and may be cited as the "Public Contractor Debarment Act."  
26

27 3. (New section) As used in sections 1 through 13 of this act:

28 "Affiliate" means a person who directly or indirectly controls or has  
29 the power to control another person.

30 "Board of education" shall have the meaning provided in section 2  
31 of "The Public School Contract Law," N.J.S.18A:18A-2.

32 "Conduct" means an act or omission and includes performance or  
33 failure to perform under the terms of a contract.

34 "Debarment" means an exclusion from contracting with a State

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 agency or local government agency for any cause set forth in this act.

2 "Governing body" shall have the meaning provided in section 2 of  
3 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-2).

4 "Local government agency" means any "contracting unit" as defined  
5 in section 2 of the "Local Public Contracts Law," P.L.1971, c.198  
6 (C.40A:11-2).

7 "Person" means any natural person, company, firm, association,  
8 corporation or other entity.

9 "Reasonable cause" means evidence sufficient to cause a reasonable  
10 person to believe that a cause for debarment exists. Evidence that a  
11 grand jury has returned an indictment or that a court has found  
12 probable cause to support a criminal charge shall be deemed sufficient  
13 to cause a reasonable person to believe that the person named engaged  
14 in the conduct charged in the indictment, complaint or information.

15 "State agency" means any board, division, commission, agency,  
16 council, department, authority or office in the Executive and  
17 Legislative branches of State government now existing or hereafter  
18 established and having the legal authority to enter into contracts or to  
19 qualify prospective bidders under the provisions of "The Public School  
20 Contract Law," N.J.S.18A:18A-1 et seq.

21 "Public contract" means any contract or agreement entered into by  
22 a State agency or local government agency to purchase goods, services  
23 or both and any contract as defined in N.J.S.18A:18A-2 entered into  
24 by any board of education.

25 "The head of a State agency" means the individual or group of  
26 individuals constituting the highest authority within any State agency.

27 "State officer or employee" has the meaning provided in subsection  
28 b. of section 2 of P.L.1971, c.182 (C.52:13D-13).

29 "Special State officer or employee" has the meaning provided in  
30 subsection e. of section 2 of P.L.1971, c.182 (C.52:13D-13).

31 "Vendor" means any person who provides, offers or proposes to  
32 provide goods or services to or perform any contract for any State  
33 agency or local government agency.

34  
35 4. (New section) a. In accordance with the procedures established  
36 in section 6 of this act, the head of a state agency or the governing  
37 body of a local government agency shall provide for the debarment of  
38 any person for the following causes:

39 (1) the person is disqualified from public contracting pursuant to  
40 subsection e. of N.J.S.2C:51-2;

41 (2) the person has been convicted of an offense in another  
42 jurisdiction for which the person would be disqualified from public  
43 contracting pursuant to subsection e. of N.J.S.2C:51-2 if the offense  
44 had been committed in or prosecuted under the laws of this State, and  
45 the Attorney General has not ordered otherwise as the public need may  
46 require; or

1 (3) the person is a business, corporation, partnership, association  
2 or proprietorship in which an individual who is disqualified from public  
3 contracting pursuant to subsection e. of N.J.S.2C:51-2 or subsection  
4 b. (1) of this section is a principal, an owner, directly or indirectly, or  
5 a controller of 5% or more of the stock or other equity interest, and  
6 the Attorney General has not ordered otherwise as the public need may  
7 require.

8 b. The head of a State agency or the governing body of a local  
9 government agency may, in accordance with the procedures  
10 established in section 6 of this act, provide for the debarment of any  
11 person for any of the following causes if, after considering all of the  
12 circumstances, including the date, nature, and seriousness of the  
13 conduct, and after considering any evidence of rehabilitation or  
14 reform of individuals, practices or policies, the head of the state  
15 agency or the governing body of the local government agency  
16 determines that debarment of the person is in the best interest of the  
17 public:

18 (1) commission of a criminal offense in connection with obtaining  
19 or attempting to obtain a public or private contract or subcontract or  
20 in the performance of such a contract or subcontract unless debarment  
21 is required by subsection a. of this section;

22 (2) violation of the federal "Organized Crime Control Act of  
23 1970," as amended and supplemented, unless debarment is required by  
24 subsection a. of this section;

25 (3) commission of an offense under chapters 15, 17, 18, 20, 21, 27,  
26 28 29, 30 or 41 of Title 2C of the New Jersey Statutes or of any  
27 offense under the laws of this State which indicates a lack of honesty  
28 or business integrity unless debarment is required by subsection a. of  
29 this section;

30 (4) commission of an offense in another jurisdiction which would  
31 be an offense described in paragraph (1) of this subsection or under  
32 the chapters of Title 2C of the New Jersey Statutes enumerated in  
33 paragraph (3) of this subsection had the offense been committed in or  
34 prosecuted under the laws of New Jersey or commission of any other  
35 offense under the laws of another jurisdiction which indicates a lack of  
36 honesty or business integrity unless debarment is required by  
37 subsection a. of this section;

38 (5) violation of federal or State antitrust statutes or the federal  
39 "Anti-Kickback Act," and the "Anti-Kickback Act Enforcement Act of  
40 1986," as amended and supplemented;

41 (6) violation of any of the laws governing the conduct of elections  
42 of the federal government or of the State of New Jersey or political  
43 subdivisions of the State of New Jersey;

44 (7) violation of the "Law Against Discrimination," P.L.1945, c.169  
45 (C.10:5-1 et seq.); the act banning discrimination in public works  
46 employment, R.S.10:2-1 et seq.; or the act prohibiting discrimination

- 1 by industries engaged in defense work in the employment of persons  
2 therein, P.L.1942, c.114 (C.10:1-10 et seq.);
- 3 (8) violation of any laws governing hours of labor, minimum wage  
4 standards, prevailing wage standards, discrimination in wages, or child  
5 labor;
- 6 (9) violation of any laws governing the conduct of occupations or  
7 professions or regulated industries;
- 8 (10) knowingly making any false statement of fact in or knowingly  
9 omitting any fact material to a bidding or contract document;
- 10 (11) a record of failure to perform or of unsatisfactory  
11 performance in accordance with the terms of one or more contracts,  
12 including failure to perform within contract prices or time limits, or to  
13 perform according to specifications or professional standards,  
14 provided that such failure or unsatisfactory performance has occurred  
15 within a reasonable time preceding the determination to debar and was  
16 caused by acts within the control of the person debarred;
- 17 (12) violation of contractual or statutory provisions regulating  
18 contingent fees;
- 19 (13) the person is an affiliate of and is controlled by or is operating  
20 to the benefit of a person who has been debarred;
- 21 (14) failure to comply with the provisions of any federal or State  
22 tax law;
- 23 (15) failure to comply with the provisions of any federal or State  
24 environmental law;
- 25 (16) the person has been found guilty of violating the "Local  
26 Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.) or of  
27 any code of ethics in effect pursuant to that act, in accordance with the  
28 procedures set forth in that act, or of violating the provisions of the  
29 "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.), in  
30 accordance with the procedures set forth in that act;
- 31 (17) direct or indirect payment, offer to pay, or agreement to pay  
32 anything of any value of any kind to:
- 33 (a) any State officer or employee or special State officer or  
34 employee of any State agency with which such person transacts, offers  
35 or proposes to transact business;
- 36 (b) a member of the immediate family of any State officer or  
37 employee or special State officer or employee with which such person  
38 transacts, offers or proposes to transact business; or
- 39 (c) any partnership, firm or corporation that employs, is associated  
40 with, or in which an interest within the meaning of subsection g. of  
41 section 2 of P.L.1971, c.182 (C.52:13D-13) is held by any State  
42 officer or employee or special State officer or employee with which  
43 such person transacts, offers or proposes to transact business;
- 44 (18) failure to report, in writing, to the Attorney General and the  
45 Executive Commission on Ethical Standards, the solicitation of  
46 anything of value not authorized by law by any State officer or

- 1 employee or special State officer or employee with which such person  
2 transacts, offers or proposes to transact business;
- 3 (19) unless the Executive Commission on Ethical Standards, upon  
4 application by the State officer or employee or special State officer or  
5 employee, has granted a waiver on the ground that the relationship  
6 does not present the potential, actuality or appearance of a conflict of  
7 interest, directly or indirectly, undertaking a private business,  
8 commercial or entrepreneurial relationship with, whether or not  
9 pursuant to employment, contract or other agreement, express or  
10 implied, or selling an interest in the vendor to:
- 11 (a) any State officer or employee or special State officer or  
12 employee having any duties or responsibilities in connection with the  
13 purchase, acquisition or sale of any property or services by or to any  
14 State agency or any instrumentality thereof; or
- 15 (b) any person, firm or entity with which any State officer or  
16 employee or special State officer or employee having any duties or  
17 responsibilities in connection with the purchase, acquisition or sale of  
18 any property or services by or to any State agency or any  
19 instrumentality thereof is employed or associated or in which such an  
20 officer or employee has an interest within the meaning of subsection  
21 g. of section 2 of P.L.1971, c.182 (C.52:13D-13);
- 22 (20) influencing, attempting to influence or causing to be  
23 influenced, any State officer or employee or special State officer or  
24 employee in his official capacity in any manner that might tend to  
25 impair the objectivity or independence of judgment of such officer or  
26 employee;
- 27 (21) causing or influencing, or attempting to cause or influence any  
28 State officer or employee or special State officer or employee to use,  
29 or attempt to use, his official position to secure unwarranted privileges  
30 or advantages for the vendor or any other person; or
- 31 (22) any other cause affecting responsibility as a public contractor  
32 of such serious and compelling nature as may be determined by the  
33 head of a State agency or the governing body of a local government  
34 agency to warrant debarment.
- 35 c. Nothing in this section is to be construed to prohibit vendors  
36 from:
- 37 (1) contracting with State officers or employees or special State  
38 officers or employees under the same terms and conditions as are  
39 offered or made available to members of the general public;
- 40 (2) giving a gift conferred on account of kinship or other personal  
41 relationship independent of the recipient's official status or the  
42 recipient's relationship to a person with official status; or
- 43 (3) giving a benefit so trivial that it involves no risk of creating an  
44 appearance that a State officer or employee or special State officer or  
45 employee would perform official duties in a biased or partial manner.

1       5. (New section) a. Except as otherwise provided by law, the  
2 head of a State agency or the governing body of a local government  
3 agency may, in the public interest and in accordance with the  
4 provisions for debarment or suspension established in section 6 and  
5 section 7 of this act, debar or suspend an affiliate of a person who is  
6 subject to suspension or debarment for a cause set forth in section 4  
7 of this act, if the person's conduct is fairly attributed to the affiliate  
8 and if, after considering all of the circumstances, including the date  
9 and the seriousness of the conduct and any evidence of rehabilitation  
10 or reform of individuals, practices or policies, the head of the State  
11 agency or the governing body of a local government agency  
12 determines that debarment is in the best interest of the public.

13       b. An offense, or failure or inadequacy of the performance of an  
14 employee, agent, officer or director of a corporation or partnership is  
15 fairly attributed to the corporation or partnership under the following  
16 circumstances:

17       (1) if the person acted within the scope of his employment and on  
18 behalf of the corporation or partnership; or

19       (2) if the directors or high managerial agents of the corporation or  
20 partnership authorized, solicited, requested, commanded or failed to  
21 exercise due diligence to prevent the person's offense, failure or  
22 inadequacy of performance.

23       c. An offense or failure or inadequacy of performance is fairly  
24 attributed to any affiliate who does any of the following:

25       (1) knowingly aids, facilitates or otherwise contributes to the  
26 person's offense or failure or inadequacy of performance;

27       (2) solicits, requests or commands the person's offense or failure  
28 or inadequacy of performance; or

29       (3) fails to exercise due diligence to prevent the offense, or failure  
30 or inadequacy of performance of a person under the affiliate's  
31 supervision.

32  
33       6. (New section) a. Except as provided in subsection f. of this  
34 section, a State agency or local government agency which seeks to  
35 debar a person shall:

36       (1) prior to the debarment, notify the person in writing of the  
37 proposed debarment, the cause for debarment alleged, and that the  
38 person has a right to a hearing prior to debarment if the person  
39 submits a written request for a hearing within 10 days of receipt of the  
40 notice of proposed debarment; and

41       (2) in the case of a State agency, transmit a copy of the notice to  
42 the Attorney General, and in the case of a local government agency,  
43 transmit a copy of the notice to the attorney for the governing body of  
44 the local government agency.

45       b. Prior to debarment of any person who submits a written request  
46 for a hearing within 10 days of receipt of the notice, a hearing shall be

1 held. In the case of a debarment sought by a State agency, the hearing  
2 shall be deemed to be and shall be conducted as a contested case  
3 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
4 (C.52:14B-1 et seq.). In the case of a debarment sought by a local  
5 government agency, the hearing shall be held before the governing  
6 body of the local government agency, or a person, board, committee  
7 or commission that is statutorily authorized to hear such matters;  
8 except that when a local government agency seeks to debar any person  
9 because of a record of failure to perform or of unsatisfactory  
10 performance, as provided by paragraph (11) of subsection b. of section  
11 4 of P.L. , c. (C. )(now pending before the Legislature as this  
12 bill), the hearing shall be conducted, on the local governing body's  
13 behalf, by the State Treasurer or the State Treasurer's designee within  
14 the Department of Treasury.

15 Except as provided in subsection e. of this section, cause for  
16 debarment must be established as follows:

17 (1) by proof by a preponderance of the evidence; or

18 (2) upon the rendering of a final judgment or conviction of a court  
19 of competent jurisdiction or of a final order by an administrative  
20 agency empowered to render an order determining the facts  
21 establishing the cause for debarment.

22 c. In the event that an appeal taken from judgment, conviction or  
23 order upon which a debarment is based results in a reversal of the  
24 judgment, conviction or order, the debarment shall be removed upon  
25 the request of the debarred person unless other cause for debarment  
26 is established according to the procedures set forth in this section.

27 d. Reversal of a judgment, conviction or order on appeal, or  
28 dismissal or other favorable disposition of a charge or complaint  
29 alleging an offense or violation set forth in paragraphs (1) through (9)  
30 or paragraphs (14) through (16) of subsection b. of section 4 of this  
31 act does not preclude a State agency or the governing body of a local  
32 government agency from determining, according to the procedures set  
33 forth in this section, that the conduct or omission that led to the  
34 charge or complaint requires debarment pursuant to paragraph (22) of  
35 subsection b. of section 4 of this act.

36 e. Where a State agency or local government agency, or an agency  
37 of another State or of the federal government, has debarred a person  
38 for a cause other than commission of an offense specified in subsection  
39 a. or paragraphs (1) through (4) of subsection b. of section 4 of this  
40 act, another State agency or local government agency may impose a  
41 similar debarment without according an opportunity for a hearing,  
42 after providing the person with notice of the proposed debarment and  
43 an opportunity to present, in writing, evidence or argument in  
44 opposition to the debarment. Where a State agency or local  
45 government agency, or an agency of another state or the federal  
46 government, has debarred a person for commission of an offense

1 specified in subsection a. or paragraphs (1) through (4) of subsection  
2 b. of section 4 of this act, another State agency or local government  
3 agency shall impose the same debarment unless the Attorney General  
4 orders otherwise as the public need may require.

5 f. Debarment shall be for a reasonable, definitely stated period of  
6 time which shall not exceed five years, except that:

7 (1) no debarment imposed pursuant to this section shall extend  
8 beyond the date of the initial debarment upon which it is based;

9 (2) unless modified by the Attorney General as the public need may  
10 require, a debarment imposed pursuant to subsection a. of section 4 of  
11 this act shall be for a period consistent with the period of  
12 disqualification provided in subsection e. of N.J.S.2C:51-2;

13 (3) the head of a State agency or the governing body of a local  
14 government agency, on not more than one occasion, may extend a  
15 period of debarment, for a period not to exceed five years, after giving  
16 the person notice of the reasons for the extension and providing the  
17 person with an opportunity to present documentary evidence and  
18 argument as to why the additional period of debarment should not be  
19 imposed;

20 (4) the head of a State agency or the governing body of a local  
21 government agency may, unless otherwise provided by law, remove or  
22 shorten the period of debarment upon the basis of the person's good  
23 faith application under oath, supported by documentary evidence, and  
24 setting forth substantial and appropriate grounds for the granting of  
25 relief, such as newly discovered material evidence, reversal of a  
26 conviction or judgment, actual change of ownership, management or  
27 control, or the elimination of the causes for which debarment was  
28 imposed; and

29 (5) the head of a State agency or the governing body of a local  
30 government agency, unless otherwise provided by law, may modify a  
31 debarment, other than a debarment for commission of an offense  
32 specified in subsection a. or paragraphs (1) through (4) of subsection  
33 b. of section 4 of this act, with respect to a particular contract if the  
34 head of the State agency or the governing body finds that the  
35 particular modification is essential to the public interest.  
36

37 7. (New section) a. A person may be suspended pending  
38 debarment as follows: except as provided in subsection b. of this  
39 section, prior to the debarment of any person, the head of a State  
40 agency or the governing body of a local government agency may order  
41 a suspension and thereby exclude the person from contracting with the  
42 agency pending initiation and final determination of a debarment  
43 proceeding, if:

44 (1) the head of a State agency and the Attorney General or the  
45 governing body of a local government agency and the attorney for the  
46 governing body find that there is reasonable cause to believe that a

1 person is subject to debarment for any cause set forth in section 4 of  
2 this act and that the public interest requires the immediate exclusion  
3 of the person from public contracting pending debarment; and

4 (2) The head of the State agency or the governing body of the local  
5 government agency provides the person with a written notice of the  
6 following:

7 (a) the suspension;

8 (b) its effective date;

9 (c) the reasons for the suspension, to the extent the Attorney  
10 General or the attorney for the governing body determines that they  
11 can properly be disclosed; and

12 (d) the person's right to submit, in writing, evidence or argument  
13 as to why the suspension should not be imposed.

14 b. Where a State agency or local government agency, or an agency  
15 of another state or the federal government, has suspended a person,  
16 another State agency or a local government agency may impose a  
17 similar suspension on the basis of the initial suspension alone, in  
18 accordance with the provisions of paragraph (2) of subsection a. of  
19 this section.

20 c. A suspension ordered pursuant to this section shall be  
21 terminated:

22 (1) if the head of the State agency or the governing body of the  
23 local government agency determines that the suspension is  
24 unwarranted;

25 (2) 60 days after the effective date of the suspension, unless the  
26 State agency or local government agency has initiated debarment  
27 proceedings or unless civil, criminal or other administrative  
28 proceedings concerning the conduct providing the basis for the  
29 suspension have been initiated by some person or governmental entity;  
30 or

31 (3) upon application of the person suspended at the conclusion of  
32 a legal proceeding that has been initiated within 60 days of suspension.

33 d. Nothing in subsection c. of this section shall be construed to  
34 preclude a subsequent suspension or subsequent initiation of  
35 debarment proceedings.

36  
37 8. (New section) The head of a State agency or the governing  
38 body of a local government agency which has taken action to suspend  
39 or debar pursuant to the provisions of this act shall prepare and  
40 continuously update a list of all persons suspended or debarred by that  
41 agency. The list shall be transmitted to the State Treasurer, who shall  
42 prepare a master list of all persons suspended or debarred pursuant to  
43 this act or barred from public contracting pursuant to subsection e. of  
44 N.J.S.2C:51-2 and provide for the publication of the list in the New  
45 Jersey Register on a monthly basis. The master list shall include the  
46 names of all persons debarred, the reason for debarment, the name of

1 the agency, the date of any suspension and the effective date and  
2 duration of the debarment.

3  
4 9. (New section) A State agency or local government agency may  
5 use a suspension or a debarment, other than a debarment for  
6 commission of an offense specified in subsection a. or paragraphs (1)  
7 through (4) of subsection b. of section 4 of this act, imposed pursuant  
8 to this act as a cause for rejecting any bid submitted for a public  
9 contract. Unless otherwise authorized by the Attorney General as the  
10 public need requires, a State agency or local government agency shall  
11 reject a bid for a public contract submitted by a person who has been  
12 debarred for commission of an offense specified in subsection a. or  
13 paragraphs (1) through (4) of subsection b. of section 4 of this act.

14  
15 10. (New section) Every person who submits a bid for award of  
16 a public contract shall be required to submit sworn statements:

17 a. indicating whether the person or any affiliate of the person is  
18 debarred or suspended pursuant to the provisions of the Public  
19 Contractor Debarment Act, P.L. , c. (C. ) (now pending before  
20 the Legislature as sections 1 through 13 of this bill) and describing the  
21 grounds for and duration of any such order of debarment or  
22 suspension; and

23 b. indicating whether the person or, if the person is a business,  
24 including any corporation, partnership, association, or proprietorship,  
25 any individual who owns directly or indirectly, or controls 5% or more  
26 of the stock or other equity interest of such person, has been convicted  
27 under the laws of this State or of another jurisdiction of any criminal  
28 offense enumerated in section 4 of this act and stating the offense and  
29 date of any such conviction.

30  
31 11. (New section) a. A State agency or local government agency  
32 is authorized to receive information regarding the criminal conduct or  
33 criminal record of any person in connection with any investigation of  
34 the qualifications of a person who seeks to enter or has entered into a  
35 contract with the agency.

36 b. A State agency, after considering, in light of the public interest,  
37 factors such as the dollar amount of contracts it awards, the sensitivity  
38 or hazardous nature of the work to be performed pursuant to contracts  
39 it awards, and the opportunity for abuse of the public interest in the  
40 performance of work pursuant to the contracts it awards, shall include,  
41 in the rules and regulations promulgated pursuant to section 13 of this  
42 act, a rule that:

43 (1) identifies, by description of the character or amount of the  
44 work, goods or services involved, the contracts for which it will  
45 require State criminal history background checks as a prerequisite to  
46 qualification to bid on or award of a State contract;

1 (2) identifies, by description of position, responsibility or duties,  
2 the officers, directors, agents, employees and affiliates who will be  
3 required to submit to a State criminal history background check; and

4 (3) establishes procedures for collection of the fees required by  
5 section 2 of P.L.1985, c.69 (C.53:1-20.6) for State criminal history  
6 background checks that are conducted as a condition of a person's  
7 qualification to submit a bid on or to receive an award of a particular  
8 contract or class of contracts.

9 c. A State agency or local government agency may not disseminate  
10 information received pursuant to this section except to federal, State,  
11 and local agencies that are evaluating the person's fitness to participate  
12 in a public contract or as may be required in the performance of duties  
13 imposed or in the conduct of proceedings required by the provisions  
14 of this act.

15  
16 12. (New section) The provisions of Executive Order No. 34 of  
17 1976 and Executive Order No. 189 of 1988 are rescinded. Any  
18 debarment ordered pursuant to the provisions of Executive Order No.  
19 34 or Executive Order No. 189 shall remain in effect until it expires,  
20 unless the debarment is modified or terminated pursuant to the  
21 provisions of section 6 of the "Public Contractor Debarment Act,"  
22 P.L. , c. (C. ) (now pending before the Legislature as  
23 this bill).

24  
25 13. (New section) Each State agency shall, pursuant to the  
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
27 promulgate rules and regulations to effectuate the purposes of this act.  
28 To the extent consistent with this act, regulations promulgated  
29 pursuant to Executive Order No. 34 of 1976 or Executive Order No.  
30 189 of 1988 are continued until modified or repealed pursuant to the  
31 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
32 (C.52:14B-1 et seq.).

33  
34 14. N.J.S.2C:51-2 is amended to read as follows:

35 2C:51-2. Forfeiture of Public Office. a. A person holding any  
36 public office, position, or employment, elective or appointive, under  
37 the government of this State or any agency or political subdivision  
38 thereof, who is convicted of an offense shall forfeit such office or  
39 position if:

40 (1) He is convicted under the laws of this State of an offense  
41 involving dishonesty or of a crime of the third degree or above or  
42 under the laws of another state or of the United States of an offense  
43 or a crime which, if committed in this State, would be such an offense  
44 or crime;

45 (2) He is convicted of an offense involving or touching such office,  
46 position or employment; or

1 (3) The Constitution or a statute other than the code so provides.

2 b. A court of this State shall enter an order of forfeiture pursuant  
3 to subsection a.:

4 (1) Immediately upon a finding of guilt by the trier of fact or a plea  
5 of guilty entered in any court of this State unless the court, for good  
6 cause shown, orders a stay of such forfeiture pending a hearing on the  
7 merits at the time of sentencing; or

8 (2) Upon application of the county prosecutor or the Attorney  
9 General, when the forfeiture is based upon a conviction of an offense  
10 under the laws of another state or of the United States. An order of  
11 forfeiture pursuant to this paragraph shall be deemed to have taken  
12 effect on the date the person was found guilty by the trier of fact or  
13 pled guilty to the offense.

14 c. No court shall grant a stay of an order of forfeiture pending  
15 appeal of a conviction or forfeiture order unless the court is clearly  
16 convinced that there is a substantial likelihood of success on the  
17 merits. If the conviction be reversed or the order of forfeiture be  
18 overturned, he shall be restored, if feasible, to his office, position or  
19 employment with all the rights, emoluments and salary thereof from  
20 the date of forfeiture.

21 Any official action taken by the convicted person on or after the  
22 date as of which a forfeiture of the person's office shall take effect  
23 shall, during a period of 60 days following the date on which an order  
24 of forfeiture shall have been issued hereunder, be voidable by the  
25 person's successor in office or, if the office of the person was that of  
26 member of the governing body of a county, municipality or  
27 independent authority, by that governing body.

28 d. In addition to the punishment prescribed for the offense, and  
29 the forfeiture set forth in subsection a. of N.J.S.2C:51-2, any person  
30 convicted of an offense involving or touching on his public office,  
31 position or employment shall be forever disqualified from holding any  
32 office or position of honor, trust or profit under this State or any of its  
33 administrative or political subdivisions.

34 e. Any forfeiture or disqualification under subsection a., b. or d.  
35 which is based upon a conviction of a disorderly persons or petty  
36 disorderly persons offense may be waived by the court upon  
37 application of the county prosecutor or the Attorney General and for  
38 good cause shown.

39 f. (1) Except as may otherwise be ordered by the Attorney  
40 General as the public need may require[, any] :

41 (a) Any person convicted of an offense under section 2C:27-2,  
42 2C:27-3, 2C:27-4, 2C:27-6, 2C:27-7, 2C:29-4, 2C:30-2, [or] 2C:30-3  
43 or 2C:41-2 of this Title shall be ineligible, either directly or indirectly,  
44 to submit a bid, enter into any contract, or to conduct any business  
45 with any board, agency, authority, department, commission, public  
46 corporation, or other body of this State, of this or one or more other

1 states, or of one or more political subdivisions of this State for a  
2 period of, but not more than, 10 years from the date of conviction for  
3 a crime of the first or second degree, or five years from the date of  
4 conviction for a crime of the third degree[.] ; and

5 b. Any person convicted of a crime under this Title involving the  
6 award, procurement or performance of a public contract or  
7 subcontract shall be forever ineligible, either directly or indirectly, to  
8 submit a bid, enter into any contract, or to conduct any business with  
9 any board, agency, authority, department, commission, public  
10 corporation, or other body of this State, of this or one or more other  
11 states, or of one or more political subdivisions of this State.

12 It is the purpose of this [subsection] paragraph to bar any  
13 individual convicted of any of the above enumerated offenses and any  
14 business, including any corporation, partnership, association or  
15 proprietorship in which such individual is a principal, or with respect  
16 to which such individual owns, directly or indirectly, or controls 5%  
17 or more of the stock or other equity interest of such business, from  
18 conducting business with public entities.

19 (2) The Attorney General or a county prosecutor who obtains a  
20 conviction for a crime enumerated in paragraph (1) of this subsection  
21 shall provide the State Treasurer with a copy of the judgment of  
22 conviction and shall thereafter notify the State Treasurer if any such  
23 conviction is reversed. If the Attorney General, as authorized by this  
24 subsection issues an order modifying a bar imposed pursuant to  
25 paragraph (1) of this subsection, the Attorney General shall notify the  
26 State Treasurer.

27 The State Treasurer shall keep and maintain a list of all individuals  
28 and corporations barred from conducting such business pursuant to  
29 this [section] subsection. The list shall indicate either that the bar is  
30 permanent on the date on which a bar of limited duration expires.

31 g. In any case in which the issue of forfeiture is not raised in a  
32 court of this State at the time of a finding of guilt, entry of guilty plea  
33 or sentencing, a forfeiture of public office, position or employment  
34 required by this section may be ordered by a court of this State upon  
35 application of the county prosecutor or the Attorney General or upon  
36 application of the public officer or public entity having authority to  
37 remove the person convicted from his public office, position or  
38 employment. The fact that a court has declined to order forfeiture  
39 shall not preclude the public officer or public entity having authority  
40 to remove the person convicted from seeking to remove or suspend  
41 the person from his office, position or employment on the ground that  
42 the conduct giving rise to the conviction demonstrates that the person  
43 is unfit to hold the office, position or employment.

44 (cf: P.L.1995, c.250, s.1)

45  
46 15. N.J.S.18A:18A-23 is amended to read as follows:

1 18A:18A-23. Certificate of bidder showing ability to perform  
2 contract.

3 a. There may be required from any bidder submitting a bid on  
4 public work to any board of education, duly advertised for in  
5 accordance with law, a certificate showing that he owns, leases, or  
6 controls all the necessary equipment required by the plans,  
7 specifications and advertisements under which bids are asked for and  
8 if the bidder is not the actual owner or lessee of any such equipment,  
9 his certificate shall state the source from which the equipment will be  
10 obtained, and shall be accompanied by a certificate from the owner or  
11 person in control of the equipment definitely granting to the bidder the  
12 control of the equipment required during such time as may be  
13 necessary for the completion of that portion of the contract for which  
14 it is necessary.

15 b. There shall be required from any bidder submitting a bid on a  
16 contract to any board of education, duly advertised in accordance with  
17 law, sworn statements indicating whether the person or any affiliate of  
18 the person is debarred or suspended pursuant to the provisions of the  
19 Public Contractor Debarment Act, P.L. , c. (C. ) (now pending  
20 before the Legislature as sections 1 through 13 of this bill) and  
21 describing the grounds for and duration of any such order of  
22 debarment or suspension and indicating whether the person, or, if the  
23 person is a business, including any corporation, partnership,  
24 association or proprietorship, any individual who owns, directly or  
25 indirectly, or controls 5% or more of the stock or equity interest of  
26 such person, has been convicted under the laws of this State or any  
27 other jurisdiction of any criminal offense enumerated in section 4 of  
28 that act and stating the offense and date of such conviction.

29 (cf: N.J.S.18A:18A-23)

30

31 16. N.J.S.18A:18A-26 is amended to read as follows:

32 18A:18A-26. Classification of bidders as requisite to bidding.

33 Every board of education shall require that all persons proposing to  
34 bid on any contract requiring public advertisement for bids with the  
35 board for public work, the entire cost whereof will exceed \$20,000.00,  
36 shall first be classified in accordance with article 6 of this chapter as  
37 to the character and amount of public work on which they shall be  
38 qualified to submit bids. So long as such requirement is in effect, the  
39 board of education shall accept such bids only from persons qualified  
40 in accordance with such classification. Unless otherwise authorized by  
41 the Attorney General as the public need requires, no board of  
42 education shall accept a bid for a public contract submitted by a person  
43 who is debarred pursuant to subsection a. or paragraphs (1) through  
44 (4) of subsection b. of section 4 of the Public Contractor Debarment  
45 Act, P.L. , c. (C. ) (now pending before the Legislature as

1 sections 1 through 13 of this bill).

2 (cf: P.L.1983, c.266, s.2)

3

4 17. N.J.S.18A:18A-28 is amended to read as follows:

5 18A:18A-28. Application for classification; fee.

6 Any person desiring such classification shall file with the  
7 department a statement under oath in response to a questionnaire,  
8 prepared and standardized for like classes of work, by the department  
9 together with a fee of \$10.00. The statement shall develop fully the  
10 financial ability, adequacy of plant and equipment, organization and  
11 prior experience of the prospective bidder, and also such other  
12 pertinent and material facts as may be deemed desirable. The person  
13 shall also file sworn statements indicating whether the person or any  
14 affiliate of the person is debarred or suspended pursuant to the  
15 provisions of the "Public Contractor Debarment Act," P.L. , c.  
16 (C. ) (now pending before the Legislature as sections 1 through 13  
17 of this bill) and describing the grounds for and duration of any such  
18 order of debarment or suspension and indicating whether the person  
19 or, if the person is a business, including any corporation, partnership,  
20 association or proprietorship, any individual who owns, directly or  
21 indirectly, or controls 5% or more of the stock or equity interest of  
22 such person, has been convicted under the laws of this State or of any  
23 other jurisdiction of any criminal offense enumerated in section 4 of  
24 that act and stating the offense and date of such conviction.

25 (cf: N.J.S.18A:18A-28)

26

27 18. N.J.S.18A:18A-31 is amended to read as follows:

28 18A:18A-31. Change in classification as affecting bids; review and  
29 reconsideration of classification.

30 Where there have been developments subsequent to the  
31 qualification and classification of a bidder which in the opinion of the  
32 board of education would affect the responsibility of the bidder or  
33 establish cause for debarment pursuant to section 4 of the Public  
34 Contractor Debarment Act, P.L. , c. (C. ) (now pending before  
35 the Legislature as sections 1 through 13 of this bill), information to  
36 that effect shall forthwith be transmitted to the department for its  
37 review and reconsideration of the classification. Before taking final  
38 action on any such bid, the board of education concerned shall notify  
39 the bidder and give him an opportunity to present to the department  
40 any additional information which might tend to substantiate the  
41 existing classification.

42 (cf: N.J.S.18A:18A-31)

43

44 19. N.J.S.18A:18A-32 is amended to read as follows:

45 18A:18A-32. Bidders not submitting statements within one year  
46 ineligible to bid; affidavit of no change in status to accompany bid;

1 reports as to performance, etc.

2 No person shall be qualified to bid on any public work contract with  
3 the board of education, the entire cost whereof will exceed  
4 \$20,000.00, who shall not have submitted a statement as required by  
5 N.J.S. 18A:18A-28 within a period of one year preceding the date of  
6 opening of bids for such contract. Every bidder shall submit with his  
7 bid an affidavit that subsequent to the latest such statement submitted  
8 by him there has been no material adverse change in his qualification  
9 information except as set forth in said affidavit. Debarment or  
10 existence of cause for debarment pursuant to section 4 of the Public  
11 Contractor Debarment Act, P.L. , c. (C ) (now pending before  
12 the Legislature as sections 1 through 13 of this bill) shall be deemed  
13 a material adverse change for purposes of this section.  
14 (cf: P.L.1983, c.266, s.4)

15

16 20. N.J.S.18A:18A-37 is amended to read as follows:

17 18A:18A-37. Award of purchases, contracts or agreements.

18 All purchases, contracts or agreements which require public  
19 advertisement for bids shall be awarded to the lowest responsible  
20 bidder. Unless the Attorney General orders otherwise, no purchases,  
21 contracts or agreements shall be awarded to a person who is debarred  
22 pursuant to subsection a. or paragraphs (1) through (4) of subsection  
23 b. of section 4 of the Public Contractor Debarment Act, P.L. , c.  
24 (C ) (now pending before the Legislature as sections 1 through 13  
25 of this bill) or disqualified from public contracting pursuant to  
26 subsection e. N.J.S.2C:51-2.

27 Prior to the award of any other purchase, contract or agreement,  
28 the contracting agent shall, except in the case of the performance of  
29 professional services, solicit quotations, whenever practicable, on any  
30 such purchase, contract or agreement the estimated cost or price of  
31 which is 20% or more of the amount set forth in, or calculated by the  
32 Governor pursuant to, N.J.S.18A:18A-3 and the award thereof shall  
33 be made, in accordance with N.J.S.18A:18A-3 or N.J.S.18A:18A-4,  
34 as the case may be, on the basis of the lowest responsible quotation  
35 received, which quotation is most advantageous to the board of  
36 education, price and other factors considered; provided, however, that  
37 if the contracting agent deems it impractical to solicit competitive  
38 quotations in the case of extraordinary unspecifiable service, or, in the  
39 case of such or any other purchase, contract or agreement awarded  
40 hereunder, having sought such quotations determines that it should not  
41 be awarded on the basis of the lowest quotation received, the  
42 contracting agent shall file a statement of explanation of the reason or  
43 reasons therefor, which shall be placed on file with said purchase,  
44 contract or agreement.

45 (cf: P.L.1983, c.171, s.6)

1       21. Section 7 of P.L.1966, c.185 (C.27:7-35.7) is amended to read  
2 as follows:

3       7. The prequalification committee to be appointed by the  
4 Commissioner of Transportation, shall consist of such officials as the  
5 commissioner may deem appropriate for the performance of these  
6 duties. In addition to its duties pertaining to the classification of  
7 prospective bidders, the prequalification committee shall conduct all  
8 hearings pertaining to the suspension and debarment of classified  
9 persons and persons desiring classifications with the department.  
10 (cf: P.L.1977, c.67, s.7)

11

12       22. Section 6 of P.L.1975, c.353 (C.40A:11-6.1) is amended to  
13 read as follows:

14       6. Awards of purchases, contracts or agreements. All purchases,  
15 contracts or agreements which require public advertisement for bids  
16 shall be awarded to the lowest responsible bidder. No purchase  
17 contract or agreement which requires public advertisement for bids  
18 shall be awarded to a person who is debarred pursuant to The Public  
19 Contractor Debarment Act, P.L. , c. (C. ) (now pending before the  
20 Legislature as sections 1 through 13 of this bill) because of the  
21 commission of an offense specified in subsection a or paragraphs (1),  
22 (2), (3) or (4) of subsection b. of section 4 of that act unless  
23 authorized by the Attorney General as the public need requires.

24       Prior to the award of any other purchase, contract or agreement,  
25 the contracting agent shall, except in the case of the performance of  
26 professional services, solicit quotations, whenever practicable, on any  
27 such purchase, contract or agreement the estimated cost or price of  
28 which is \$1,000.00 or more, and the award thereof shall be made, in  
29 accordance with sections 3 (C.40A:11-3) or 4 (C.40A:11-4), as the  
30 case may be, of the "Local Public Contracts Law," P.L.1971, c.198 on  
31 the basis of the lowest responsible quotation received, which quotation  
32 is most advantageous to the contracting unit, price and other factors  
33 considered; provided, however, that if the contracting agent deems it  
34 impracticable to solicit competitive quotations in the case of  
35 extraordinary unspecifiable service, or, in the case of such or any other  
36 purchase, contract or agreement awarded hereunder, having sought  
37 such quotations determines that it should not be awarded on the basis  
38 of the lowest quotation received, the contracting agent shall file a  
39 statement of explanation of the reason or reasons therefor, which shall  
40 be placed on file with said purchase, contract or agreement.

41 (cf: P.L.1983, c.418, s.1)

42

43       23. Section 26 of P.L.1971, c.198 (C.40A:11-26) is amended to  
44 read as follows:

45       26. Standard questionnaire; effect of unsatisfactory answers. The  
46 governing body of any contracting unit may adopt a standard form of

1 statement or questionnaire for bidders on public works and contracts  
2 and may require from any person proposing to bid upon any such  
3 public work or contract a statement or answers showing his financial  
4 ability and experience in performing public work and describing the  
5 equipment available to such bidder in the performance of such work  
6 or contract, and if not satisfied with the sufficiency of this statement  
7 or answers may refuse to furnish plans and specifications to him. The  
8 governing body of each contracting unit shall require each person  
9 proposing to bid to submit a sworn statement indicating whether the  
10 person, or any affiliate of the person, is debarred or suspended  
11 pursuant to the provisions of the "State Contractor Debarment Act,"  
12 P.L. c. (C. ) (now pending before the Legislature as sections 1  
13 through 13 of this bill) and describing the grounds for and duration of  
14 any such order of debarment or suspension and indicating whether the  
15 person or, if the person is a business, including any corporation,  
16 partnership, association or proprietorship, any individual who owns  
17 directly or indirectly, or controls 5% or more of the stock or other  
18 equity interest of such person, has been convicted under the laws of  
19 this State or of any other jurisdiction of any criminal offense  
20 enumerated in section 4 of that act and stating the offense and date of  
21 any such conviction.

22 (cf: P.L.1971, c.198, s.26)

23

24 24. Section 31 of P.L.1971, c.198 (C.40A:11-31) is amended to  
25 read as follows:

26 31. Reconsideration by board of review; request for the time limit.  
27 Any prospective bidder who is dissatisfied with his original  
28 classification ~~[or]~~, reclassification or debarment may upon receipt of  
29 notice thereof, request in writing a hearing of the matter before the  
30 board of review. The request shall be filed with the contracting agent  
31 and the secretary of the board.

32 The board shall hold a hearing at which the prospective bidder shall  
33 be entitled to be heard and to submit additional information.

34 The board shall review the responsibility of all prospective bidders  
35 who have filed statements or answers, considering both the statement,  
36 answers and any additional information given at the hearing, and shall  
37 certify to the contracting unit concerned, its decision as to the original  
38 classifications or reclassifications, if any. The decisions shall be made  
39 by a majority vote.

40 In order for any change in classification by the board to be effective  
41 for public work or contract previously advertised, the request shall be  
42 filed not less than ~~[5]~~ five days prior to the final day for submission of  
43 bids, and the board shall hold a hearing and act upon the request not  
44 less than ~~[2]~~ two days prior to the date fixed for the next opening of  
45 bids on any public work or contract for which such prospective

1 bidders might be qualified to bid as a result of the reclassification.  
2 (cf: P.L.1971, c.198, s.31)

3  
4 25. This act shall take effect immediately.

5  
6  
7 STATEMENT

8  
9 This bill broadens the scope of the law providing for the exclusion  
10 ("debarment") of certain vendors of goods and services from eligibility  
11 to seek or receive public contracts. The bill also establishes new  
12 procedures for enforcing debarment.

13 Grounds for debarment; duration of the debarment.

14 1. Mandatory debarment. New Jersey's Code of Criminal Justice  
15 presently provides that, "except as may otherwise may be ordered by  
16 the Attorney General as the public need may require," a person  
17 convicted of certain offenses under the Code shall be debarred from  
18 bidding for or conducting any business with a State agency or a  
19 political subdivision of the State for up to 10 years from the date of  
20 conviction if the crime is of the second degree or up to five years from  
21 that date if the crime is of the third degree (N.J.S.2C:51-2, subsection  
22 e). These offenses include bribery and various other crimes involving  
23 the actual or attempted exercise of corrupt influence on the  
24 performance of official duty (N.J.S.2C:27-2, 2C:27-4, 2C:27-6,  
25 2C:27-7), the gift or acceptance of a benefit to refrain from reporting  
26 or seeking prosecution of an offense (N.J.S.2C:29-4), unauthorized  
27 exercise by a public servant of official functions for personal gain  
28 (N.J.S.2C:30-2), and misuse of privileged access to official  
29 information (N.J.S.2C:30-3). Also subject to mandatory debarment is  
30 any firm in which an individual convicted of any of these enumerated  
31 offenses controls an interest of 5% or more.

32 To this list of automatically disqualifying offenses under the  
33 Criminal Code, the legislation adds the crimes of making threats to  
34 influence the performance of official duties (N.J.S.2C:27-3) and  
35 racketeering (N.J.S.A.2C:41-2). The bill would also apply mandatory  
36 debarment to a person convicted in another jurisdiction of an offense,  
37 conviction of which under New Jersey law would be grounds for such  
38 disbarment.

39 The bill requires that the term of any mandatory debarment for  
40 crimes of the second degree (and, to accommodate the statutory  
41 grading of the newly included crime of racketeering, those of the first  
42 degree) shall be the full 10 years. The term of mandatory debarment  
43 for crimes of the third degree is to be the full five years. The bill  
44 provides that, in the case of a person convicted under any crime under  
45 the Code involving the award, procurement or performance of a public  
46 contract, the debarment is to be permanent. The provision for

- 1 modification of the mandatory debarment sanction by order of the  
2 Attorney General is retained.
- 3 2. Discretionary debarment. Current law does not authorize a  
4 public contracting agency, at its discretion, to debar vendors from  
5 eligibility to seek or do business with the agency. Under the bill,  
6 however, the head of a State agency or the governing body of a local  
7 government agency may, in the interest of the public, debar a person  
8 for misconduct not constituting grounds for mandatory debarment  
9 after considering certain circumstances of the misconduct and any  
10 evidence of rehabilitation. Types of misconduct (not including those  
11 subject to mandatory debarment under item 1, supra) that would  
12 constitute grounds for discretionary debarment include the following:
- 13 a. Commission of a crime relating to the obtaining or performance  
14 of a public of a public contract;
  - 15 b. Violation of the federal "Organized Crime Control Act of 1970";
  - 16 c. Commission of an offense under any of certain chapters of the  
17 Code of Criminal Justice, viz., chapter 15 (robbery), chapter 17 (arson  
18 and other property destruction), chapter 18 (burglary), chapter 20  
19 (theft, extortion, receipt of stolen property, etc.), chapter 21 (forgery  
20 and fraud), chapter 27 (corrupt influencing of public officials), chapter  
21 28 (perjury and like misconduct), chapter 29 (obstruction of law  
22 enforcement), chapter 30 (official misconduct) or chapter 41  
23 (racketeering), or any offense under other New Jersey law which  
24 indicates a lack of honesty or business integrity;
  - 25 d. Commission in another jurisdiction of an offense which would,  
26 if prosecuted in New Jersey, be an offense (1) relating to public  
27 contracting, or (2) under the chapters just enumerated, or (3)  
28 indicating a lack of honesty or business integrity;
  - 29 e. Violation of federal or State antitrust statutes or the federal  
30 "anti-kickback" laws;
  - 31 f. Violation of laws governing the conduct of federal, State, or  
32 local elections;
  - 33 g. Violation of certain State laws against discrimination in  
34 employment;
  - 35 h. Violation of the laws governing hours of labor, wage standards  
36 and discrimination, and child labor;
  - 37 i. Violation of laws governing regulated occupations, professions  
38 and industries;
  - 39 j. Knowing false statements in, or omission to state a fact material  
40 to, a bidding or contract document;
  - 41 k. A poor performance record;
  - 42 l. Violation of contractual or statutory provisions regulating  
43 contingent fees;
  - 44 m. Affiliation with and being subject to control by a debarred  
45 person;
  - 46 n. Failure to comply with federal or State tax law;

- 1 o. Failure to comply with federal or State environmental law;
- 2 p. Violation of the "Local Government Ethics Law" or any code of  
3 ethics promulgated thereunder, or of the "School Ethics Act", as  
4 determined in accordance with those statutes;
- 5 q. Paying, or offering or agreeing to pay, anything of value to a  
6 State official serving in an agency with which the person does or  
7 proposes to do business, or any firm with which the official is  
8 employed or associated or in which the official has an interest;
- 9 r. Failure to report improper solicitations by a State official with  
10 whom the person so solicited seeks or does business;
- 11 s. Undertaking a private business relationship with or selling an  
12 interest in the vendor to either a public official having responsibility  
13 for procurement or a firm in which such an official has an interest;
- 14 t. Influencing or attempting to influence a State official in a manner  
15 tending to impair the official's objectivity or independence of  
16 judgment;
- 17 u. Influencing or attempting to influence a State official to abuse  
18 that person's office for the benefit of the vendor; and
- 19 v. Any other cause which affects responsibility as a public  
20 contractor and is sufficiently serious as to warrant debarment.

21 Enforcement procedures.

22 The bill establishes procedures which a State or local government  
23 agency is to follow when it seeks to debar a person. These procedures  
24 include: written notice of the proposed debarment, including the  
25 specification of the cause alleged and advisement of the right to a  
26 hearing; holding of a hearing on the question under procedures used  
27 in similar cases; and adoption of a finding of cause for debarment only  
28 upon proof by a preponderance of the evidence or upon the rendering  
29 in an official proceeding of a final judgment, conviction or final  
30 administrative order, as appropriate. Reversal on appeal of such a  
31 judgment, conviction or order or other favorable disposition of a  
32 charge or complaint alleging certain of the offenses subject to  
33 discretionary debarment does not preclude a State agency or local  
34 governing body from seeking debarment for misconduct sufficiently  
35 serious to warrant it.

36 Effect of prior debarment.

37 If a person has been debarred by an agency of one jurisdiction,  
38 including the federal government and agencies of other states, for  
39 conduct that would support either mandatory debarment or  
40 discretionary debarment under any of items a. through d. above, an  
41 agency of another jurisdiction shall impose the same debarment. If a  
42 person has been debarred in one jurisdiction for conduct supporting  
43 discretionary debarment under the other enumerated items, he or she  
44 may be debarred in another jurisdiction.

1

\_\_\_\_\_

2

3 Authorizes any State or local government agencies to debar certain  
4 persons from contracting with agency.

WITHDRAWN

WITHDRAWN