

# HOUSE BILL REPORT

## SB 5948

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**As Passed House:**  
June 28, 2013

**Title:** An act relating to state procurement of goods and services.

**Brief Description:** Concerning state procurement of goods and services.

**Sponsors:** Senators Braun, Chase, O'Ban, Keiser, Padden, Hill, Holmquist Newbry, Becker and Brown.

**Brief History:**

**Committee Activity:**

None.

**Second Special Session**

**Floor Activity:**

Passed House: 6/28/13, 92-0.

**Brief Summary of Bill**

- Expands grounds for debarment of procurement contractors to include final determinations in civil actions, fraud, and violations of the federal false claims act or the state Medicaid Fraud False Claims Act.

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**Staff:** Marsha Reilly (786-7135).

**Background:**

In 2011 laws were enacted consolidating procurement functions from the General Administration, the Department of Information Services, and the Office of Financial Management into the newly created Department of Enterprise Services (DES). The DES was tasked with effecting the reform and consolidation of state procurement practices and providing a report to the Governor with procurement reform recommendations by December 31, 2011. These recommendations were enacted by the Legislature in 2012.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The 2012 legislation included a grant of authority to the Director of the DES (Director) to debar a contractor from consideration for award of contracts for a period of not more than three years based on a finding of one or more of the following causes:

- conviction of a criminal offense as an incident to obtaining a public or private contract or subcontract, or in the performance of such contract;
- conviction under state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty;
- conviction under state or federal antitrust laws arising out of the submission of bids or proposals;
- violation of contract provisions of a character regarded by the Director to justify debarment action, including deliberate failure without good cause to perform the contract, or a recent record of failure to perform or of unsatisfactory performance with the terms of one or more contracts;
- violation of ethical standards; or
- any other serious or compelling cause to affect responsibility as a state contractor, including debarment by another governmental entity.

A decision to debar must be issued by the Director in writing and must state the reasons for the action taken, and must inform the debarred contractor of his or her rights to judicial or administrative review.

Through the federal Medicaid program, the state and federal governments provide medical, dental, behavioral health, and long-term care to an average of 1.2 million low-income Washingtonians each month. The Medicaid Fraud Control Unit in the Office of the Attorney General (AG) investigates cases of suspected fraud in the Medicaid program. Under the Federal False Claims Act, entities that submit false or fraudulent claims for federal government funds may be liable for a civil penalty. In 2012, the Legislature enacted a similar state Medicaid Fraud False Claims Act.

#### **Summary of Bill:**

The grounds for an action by the DES to debar a state contractor under the state debarment statute are expanded to explicitly include:

- criminal conviction or final determination in a civil action of fraud;
- civil action determination of embezzlement, theft, forgery, bribery, falsification/ destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity; and
- criminal conviction or final determination in a civil action of violation of the Federal False Claims Act or the state Medicaid Fraud False Claims Act.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.