



MEMO OF SUPPORT

S9398 (Ramos)

Requires lists of debarred companies be published as open data

May 16, 2024

TITLE OF BILL

An act to amend the workers' compensation law, the labor law, and the executive law, in relation to requiring the workers' compensation board and the department of labor to publish lists of debarred entities as open data.

SUMMARY OF PROVISIONS

Section 1 amends Section 141-b of Article 8 of Chapter 67 of the Workers' Compensation Law to require the Workers Compensation Board (WCB) to maintain and publish a list of debarred or non-responsible persons or entities in open data format, and transit the list to the Office of General Services (OGS) for publishing on data.ny.gov.

Sections 2, 3, 4, and 5 amend Section 220-b of Article 8, Section 239-a of Article 9, and Sections 861-e and 862-d of Article 25-B of Chapter 31 of the Labor Law, respectively, to require the Department of Labor to maintain and publish a list of debarred or non-responsible persons or entities in open data format, and transit the list to OGS for publishing on data.ny.gov.

Section 6 adds a new 203-c to Chapter 18, Article 10 of the Executive Law to require OGS to maintain and publish within five days of receipt a list of non-responsible or debarred persons or entities in an open data format on its website pursuant to Executive Order 192 of 2019. It also requires OGS to publish lists of current and prior persons or entities on data.ny.gov, pursuant to Executive Order 95 of 2013.

Section 7 sets the effective date as immediate.

STATEMENT OF SUPPORT

We support this legislation because the state should be doing everything it can to make sure that it is spending public dollars on companies that protect their workers, deliver on their contracts, and are not embroiled in corruption schemes. Publishing lists of companies that are debarred for these reasons as open data is just common sense.

One important role of the Department of Labor and Workers Compensation Board is to debar people or organizations who have been penalized for violating the Labor or Workers' Compensation Laws. Debarred entities are prohibited from being awarded contracts with the state, as well as with other local governments and authorities in New York.

Debarment isn't done lightly and is triggered by specific conditions. For example, under Section 141-b of the Workers' Compensation Law, individuals and entities that are debarred have been:

1. Subject to a final assessment of civil fines or penalties, or a stop-work order;
2. Convicted of a misdemeanor for a violation under sections 26 (defaulting on payments), 52 (failure to secure compensation) or 131 (failure to keep payroll records) of the Workers' Compensation Law ;
3. Convicted of a felony under the Workers Compensation Law; or
4. Convicted of a misdemeanor under sections 125 (job discrimination based on prior receipt of benefits) and 125-a (discriminating against an injured veteran) of the Workers' Compensation Law.

Unfortunately, the current "list" published by the Department of Labor of people and companies who have been debarred by the WCB is nearly useless. A balky restricted search form is published on the [Department of Labor's website](#), where functionally the public can only enter the name of one entity at a time. But despite its name, this "debarment list" is not a list of companies that have been debarred by the WCB.

This is especially disturbing because according to the [Office of General Services](#) – which must publish lists of debarred entities under [Executive Order 192 of 2019](#) – the only entities debarred from contracting with New York State are debarred for labor law violations. This makes publishing WCB's debarment data doubly important.

There is a major corruption risk when the public can't see the entities who have been debarred for labor or other violations. [As reported by The City](#) news platform, Kiska Construction was and still is at the heart of a number of major corruption scandals in New York City, yet somehow slipped through the cracks and was awarded a contract by the State Department of Transportation. If there were lists of current and formerly debarred people and companies easily accessible to the public, we think it is unlikely that the state would have awarded them a contract.

We strongly urge the Legislature to pass the bill, and the Governor to sign it.