

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Brown offered the following:

**Amendment (with title amendment)**

Between line(s) 527 and 528, insert:

Section 14. Section 255.0517, Florida Statutes, is created to read:

255.0517 Owner-controlled insurance programs for public construction projects.--

(1) DEFINITIONS.--As used in this section, the term:

(a) "Owner-controlled insurance program" means a consolidated insurance program or series of insurance policies issued to a public agency that may provide one or more of the following types of insurance coverage for all of the contractors, subcontractors, architects, and engineers working at specified or multiple contracted work sites of a public construction project: general liability, property damage,

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27 workers' compensation, employer's liability, builder's risk, or  
28 pollution liability coverage.

29 (b) "Specified contracted work site" means construction  
30 being performed during one or more fiscal years at one site or a  
31 series of contiguous sites separated only by a street, roadway,  
32 waterway, or railroad right-of-way or along a continuous system  
33 for the provision for water and power.

34 (c) "Multiple contracted work site" means construction  
35 being performed at multiple sites during one or more fiscal  
36 years that is part of a ongoing capital infrastructure  
37 improvement program, or involves the construction of one or more  
38 public schools.

39 (2) PURCHASE REQUIREMENTS.--A state agency, political  
40 subdivision, state university, community college, airport  
41 authority, or other public agency in this state, or any  
42 instrumentality thereof, may only purchase an owner-controlled  
43 insurance program in connection with a public construction  
44 project if it is determined necessary and in the best interest  
45 of the public agency and if each of the following conditions is  
46 met:

47 (a) The estimated total cost of the project is:

48 1. Seventy-five million dollars or more;

49 2. Thirty million dollars or more, if the project is for  
50 the construction or renovation of two or more public schools  
51 during a fiscal year; or

52 3. Ten million dollars or more, if the project is for the  
53 construction or renovation of one public school, regardless of  
54 whether the project's duration extends beyond a fiscal year.

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55 (b) The program maintains completed operations insurance  
56 coverage for a term during which the coverage is reasonably  
57 commercially available, as determined by the public agency, but  
58 for no less than 5 years.

59 (c) The bid or proposal specifications for the project  
60 clearly specify, for all bidders or proposers, the insurance  
61 coverage provided under the program and the minimum safety  
62 requirements that must be met.

63 (d) The program does not prohibit a contractor or  
64 subcontractor from purchasing any additional insurance coverage  
65 that the contractor or subcontractor believes is necessary for  
66 protection against any liability arising out of the contract.  
67 The cost of the additional insurance must be disclosed to the  
68 public agency.

69 (e) The program does not include surety insurance.

70 (f) The public agency may only purchase an owner-  
71 controlled insurance policy that has a deductible or self-  
72 insured retention if the deductible or self-insured retention  
73 does not exceed \$1 million per occurrence.

74 (g) The public agency is responsible for payment of the  
75 applicable deductibles of all claims.

76 (3) EXEMPTIONS.--This section does not apply to the  
77 following projects:

78 (a) Any project of the Department of Transportation that  
79 is authorized under s. 337.11;

80 (b) Any existing project or projects of a public agency  
81 that are the subject of an ongoing, owner-controlled insurance  
82 program issued before October 1, 2003; or

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83 (c) Any project of a public agency that is advertised by  
84 the public agency before October 1, 2003, for the purpose of  
85 receiving bids or proposals for the project.

86 Section 15. Section 627.441, Florida Statutes, is created  
87 to read:

88 627.441 Commercial general liability policies; coverage to  
89 contractors for completed operations.--

90 (1) As used in this section, the term:

91 (a) "Contractor" means a contractor, subcontractor,  
92 architect, or engineer performing work on a public construction  
93 project under contract with a public agency, as described in s.  
94 255.0517(2).

95 (b) "Liability insurer" means an insurer issuing a  
96 commercial general liability insurance policy in this state to a  
97 contractor that provides coverage for liability arising out of  
98 completed operations performed by the contractor or on the  
99 contractor's behalf.

100 (2) A liability insurer must offer coverage at an  
101 appropriate additional premium for liability arising out of  
102 current or completed operations under an owner-controlled  
103 insurance program for any period beyond the period for which the  
104 program provides liability coverage, as specified in s.  
105 255.0517(2)(b). The period of such coverage must be sufficient  
106 to protect against liability arising out of an action brought  
107 within the time limits provided in s. 95.11(3)(c).

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110 ===== T I T L E A M E N D M E N T =====

111 Remove line(s) 42 and 43, and insert:

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112 contractor or surety; providing for liability; creating s.  
113 255.0517, F.S.; defining terms; limiting the authority of  
114 certain public agencies to purchase owner-controlled insurance  
115 programs for public construction projects; establishing purchase  
116 requirements; providing exemptions; creating s. 627.441, F.S.;  
117 requiring insurers issuing commercial general liability policies  
118 to offer coverage for completed operations liability for certain  
119 contractors to the extent that coverage is not provided under an  
120 owner-controlled insurance program; providing an effective date.