

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senators Wise, Bennett and Campbell

310-2475-03

1 A bill to be entitled
2 An act relating to insurance; creating s.
3 255.0517, F.S.; defining terms; limiting the
4 authority of certain public agencies to
5 purchase owner-controlled-insurance programs
6 for public construction projects; establishing
7 purchase requirements; providing exemptions;
8 creating s. 627.441, F.S.; requiring insurers
9 issuing commercial general liability policies
10 to offer coverage for completed operations
11 liability for certain contractors to the extent
12 that coverage is not provided under an
13 owner-controlled-insurance program; providing
14 an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 255.0517, Florida Statutes, is
19 created to read:

20 255.0517 Owner-controlled-insurance programs for
21 public construction projects.--

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

23 (a) "Owner-controlled-insurance program" means a
24 consolidated insurance program or series of insurance policies
25 issued to a public agency which may provide one or more of the
26 following types of insurance coverage for all of the
27 contractors, subcontractors, architects, and engineers working
28 at specified or multiple contracted work sites of a public
29 construction project: general liability, property damage,
30 workers' compensation, employer's liability, builder's risk,
31 or pollution liability coverage.

1 **(b) "Specified contracted work site" means**
2 **construction being performed during one or more fiscal years**
3 **at one site or a series of contiguous sites separated only by**
4 **a street, roadway, waterway, or railroad right-of-way, or**
5 **along a continuous system for the provision for water and**
6 **power.**

7 **(c) "Multiple contracted work site" means construction**
8 **being performed at multiple sites during one or more fiscal**
9 **years which is part of an ongoing capital infrastructure**
10 **improvement program or which involves the construction of one**
11 **or more public schools.**

12 **(2) PURCHASE REQUIREMENTS.--A state agency, political**
13 **subdivision, state university, community college, airport**
14 **authority, or other public agency in this state, or any**
15 **instrumentality thereof, may only purchase an**
16 **owner-controlled-insurance program in connection with a public**
17 **construction project if it is determined necessary and in the**
18 **best interest of the public agency and if each of the**
19 **following conditions is met:**

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

21 **1. Seventy-five million dollars or more;**

22 **2. Thirty million dollars or more, if the project is**
23 **for the construction or renovation of two or more public**
24 **schools during a fiscal year; or**

25 **3. Ten million dollars or more, if the project is for**
26 **the construction or renovation of one public school,**
27 **regardless of whether the project's duration extends beyond a**
28 **fiscal year.**

29 **(b) The program maintains**
30 **completed-operations-insurance coverage for a term during**
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1 which the coverage is reasonably commercially available as
2 determined by the public agency, but for no less than 5 years.

3 (c) The bid or proposal specifications for the project
4 clearly specify, for all bidders or proposers, the insurance
5 coverage provided under the program and the minimum safety
6 requirements that must be met.

7 (d) The program does not prohibit a contractor or
8 subcontractor from purchasing any additional insurance
9 coverage that the contractor or subcontractor believes is
10 necessary for protection against any liability arising out of
11 the contract. The cost of the additional insurance must be
12 disclosed to the public agency.

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

14 (f) The public agency may only purchase an
15 owner-controlled-insurance policy that has a deductible or
16 self-insured retention if the deductible or self-insured
17 retention does not exceed \$1 million.

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

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

22 (a) Any project of the Department of Transportation
23 which is authorized under s. 337.11;

24 (b) Any existing project or projects of a public
25 agency which are the subject of an ongoing,
26 owner-controlled-insurance program issued before October 1,
27 2003; or

28 (c) Any project of a public agency which is advertised
29 by the public agency before October 1, 2003, for the purpose
30 of receiving bids or proposals for the project.

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1 Section 2. Section 627.441, Florida Statutes, is
2 created to read:

3 627.441 Commercial general liability policies;
4 coverage to contractors for completed operations.--

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

6 (a) "Contractor" means a contractor, subcontractor,
7 architect, or engineer performing work on a public
8 construction project under contract with a public agency, as
9 described in s. 255.0517(2).

10 (b) "Liability insurer" means an insurer issuing a
11 commercial general liability insurance policy in this state to
12 a contractor which provides coverage for liability arising out
13 of completed operations performed by the contractor or on the
14 contractor's behalf.

15 (2) A liability insurer must offer coverage at an
16 appropriate additional premium for liability arising out of
17 current or completed operations under an
18 owner-controlled-insurance program for any period beyond the
19 period for which the program provides liability coverage, as
20 specified in s. 255.0517(2)(b). The period of this coverage
21 must be sufficient to protect against liability arising out of
22 an action brought within the time limits provided in s.
23 95.11(3)(c).

24 Section 3. This act shall take effect October 1, 2003.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 718

4 The committee substitute replaces the original bill and
5 restricts the authority of certain public agencies (i.e.,
6 state agencies, political subdivisions, state universities,
7 community colleges, and airport authorities) to purchase an
8 owner-controlled-insurance program (OCIPs) in connection with
9 a public construction project, except under specified
10 conditions. These conditions include a requirement that the
11 estimated total cost of the public construction project must
12 be at least \$75 million, at least \$30 million if the project
13 is for construction or renovation of two or more public
14 schools during a fiscal year, or at least \$10 million if the
15 project is for construction or renovation of one public
16 school. The committee substitute exempts from these
17 restrictions OCIPs in connection with road projects of the
18 Department of Transportation, with existing projects that are
19 the subject of ongoing OCIPs, or with projects advertising
20 bids before October 1, 2003.

21 The committee substitute requires each OCIP to maintain
22 insurance coverage with respect to completed operations for a
23 term that is reasonably commercially available, but for at
24 least 5 years. In addition, the committee substitute requires
25 insurers to offer insurance coverage at an appropriate
26 additional premium for liability arising out of current or
27 completed operations under an OCIP for a period beyond the
28 period covered by the OCIP.
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