

By Senator Atwater

25-1653-04

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.; defining terms;  
9           requiring insurers issuing commercial general  
10          liability policies to offer coverage for  
11          completed operations liability for certain  
12          contractors to the extent that coverage is not  
13          provided under an owner-controlled insurance  
14          program; providing 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 that may provide one or more of the  
26 following types of insurance coverage for any contractor,  
27 subcontractor, architect, or engineer working at specified or  
28 multiple contracted work sites of a public construction  
29 project: general liability, property damage, workers'  
30 compensation, employer's liability, builder's risk, or  
31 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 along**  
5 **a continuous system for the provision for water and power.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22       (b) Any existing project or projects of a public  
23 agency which are the subject of an ongoing, owner-controlled  
24 insurance program issued before October 1, 2004; or

25       (c) Any project of a public agency which is advertised  
26 by the public agency before October 1, 2004, for the purpose  
27 of receiving bids or proposals for the project.

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

30       627.441 Commercial general liability policies;  
31 coverage to contractors for completed operations.--

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

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

6           (b) "Liability insurer" means an insurer issuing a  
7 commercial general liability insurance policy in this state to  
8 a contractor that provides coverage for liability arising out  
9 of completed operations performed by the contractor or on the  
10 contractor's behalf.

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

19           Section 3. This act shall take effect October 1, 2004.

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22           SENATE SUMMARY

23           Limits the authority of certain public agencies to  
24           purchase owner-controlled insurance programs. Establishes  
25           purchase requirements and provides exemptions. Requires  
26           insurers that issue commercial general liability policies  
              to offer coverage for completed operations liability for  
              certain contractors to the extent that coverage is not  
              provided under an owner-controlled insurance program.

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