

By Senator Bennett

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A bill to be entitled  
An act relating to owner-controlled insurance programs for public construction projects; amending s. 255.0517, F.S.; redefining the term "owner-controlled insurance program" to exclude an insurance program that may provide coverage for a contractor or subcontractor working at multiple contracted sites; providing that work sites will not be deemed contiguous solely because the work involves infrastructure improvements to related delivery systems; deleting the definition of "multiple contracted work site"; requiring that certain contracts for construction work be performed under a single prime contract; revising a condition precedent to the purchase by specified state agencies or entities of an owner-controlled insurance program in connection with a public construction project; reenacting s. 627.441(2), F.S., relating to a requirement that liability insurers offer coverage for a specified period for liability arising out of current or completed operations under an owner-controlled insurance program, for the purpose of incorporating the amendment to s. 255.0517, F.S., in a reference thereto; providing an effective date.

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

1           Section 1. Subsections (1) and (2) of section  
2 255.0517, Florida Statutes, are amended to read:

3           255.0517 Owner-controlled insurance programs for  
4 public construction projects.--

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

6           (a) "Owner-controlled insurance program" means a  
7 consolidated insurance program or series of insurance policies  
8 issued to a public agency that may provide one or more of the  
9 following types of insurance coverage for any contractor or  
10 subcontractor working at a specified ~~or multiple~~ contracted  
11 work ~~site sites~~ of a public construction project: general  
12 liability, property damage excluding coverage for damage to  
13 real property, workers' compensation, employer's liability, or  
14 pollution liability coverage.

15           (b) "Specified contracted work site" means  
16 construction being performed during one or more fiscal years  
17 at one site or a series of contiguous sites separated only by  
18 a street, roadway, waterway, or railroad right-of-way ~~or along~~  
19 ~~a continuous system for the provision for water and power.~~  
20 Work sites will not be deemed to be contiguous for purposes of  
21 this section solely because the work involves infrastructure  
22 improvements to related delivery systems.

23           ~~(c) "Multiple contracted work site" means construction~~  
24 ~~being performed at multiple sites during one or more fiscal~~  
25 ~~years that is part of an ongoing capital infrastructure~~  
26 ~~improvement program or involves the construction of one or~~  
27 ~~more public schools.~~

28           (2) PURCHASE REQUIREMENTS.--A state agency, political  
29 subdivision, state university, community college, airport  
30 authority, or other public agency in this state, or any  
31 instrumentality thereof, may only purchase an owner-controlled

1 insurance program in connection with a public construction  
2 project if it is determined necessary and in the best interest  
3 of the public agency and if all of the following conditions  
4 are met:

5 (a) The construction work will be performed under a  
6 single prime contract and the estimated total amount of the  
7 prime contract ~~cost of the project~~ is:

- 8 1. Seventy-five million dollars or more;
- 9 2. Thirty million dollars or more, if the project is  
10 for the construction or renovation of two or more public  
11 schools during a fiscal year; or
- 12 3. Ten million dollars or more, if the project is for  
13 the construction or renovation of one public school,  
14 regardless of whether the project's duration extends beyond a  
15 fiscal year.

16 (b) The program maintains completed operations  
17 insurance coverage for the period of time provided in s.  
18 95.11(3)(c) for actions founded on construction defects ~~a term~~  
19 ~~during which the coverage is reasonably commercially~~  
20 ~~available, as determined by the public agency, but for no less~~  
21 ~~than 5 years.~~

22 (c) The bid or proposal specifications for the project  
23 clearly specify, for all bidders or proposers, the insurance  
24 coverage provided under the program and the minimum safety  
25 requirements that must be met.

26 (d) The program does not prohibit a contractor or  
27 subcontractor from purchasing any additional insurance  
28 coverage that the contractor or subcontractor believes is  
29 necessary for protection against any liability arising out of  
30 the contract. The cost of the additional insurance must be  
31 disclosed to the public agency.

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

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

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

8 Section 2. For the purpose of incorporating the  
9 amendment made by this act to section 255.0517, Florida  
10 Statutes, in a reference thereto, subsection (2) of section  
11 627.441, Florida Statutes, is reenacted to read:

12 627.441 Commercial general liability policies;  
13 coverage to contractors for completed operations.--

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

22 Section 3. This act shall take effect July 1, 2007.  
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SENATE SUMMARY

Redefines the term "owner-controlled insurance program" to exclude an insurance program that may provide coverage for a contractor or subcontractor working at multiple contracted sites. Provides that work sites will not be deemed contiguous solely because the work involves infrastructure improvements to related delivery systems. Deletes the definition of "multiple contracted work site." Provides a condition precedent for purchase by a state agency that construction work will be performed under a single prime contract. Revises a condition precedent to the purchase by specified state agencies or entities of an owner-controlled insurance program in connection with a public construction project.