

By the Committee on Banking and Insurance; and Senator Bennett

597-2457-07

1 A bill to be entitled
2 An act relating to owner-controlled insurance
3 programs for public construction projects;
4 amending s. 255.0517, F.S.; redefining the term
5 "specified contracted work site"; defining the
6 term "capital infrastructure improvement
7 program"; requiring purchase of
8 owner-controlled insurance in connection with a
9 public construction project if the program
10 maintains completed operations insurance
11 coverage for no less than 10 years; exempting
12 contractors and subcontractors working under a
13 construction project insured by an
14 owner-controlled insurance program from
15 individually satisfying eligibility
16 requirements for large deductible workers'
17 compensation rating plans; authorizing such
18 contractors and subcontractors to combine their
19 payrolls under the owner-controlled insurance
20 program for workers' compensation coverage as
21 long as the minimum deductible for the project
22 is \$100,000 or more and the standard estimated
23 premium is \$500,000 or more; providing for a
24 capital infrastructure improvement program;
25 providing limitations concerning when the
26 construction of a single public agency service,
27 system, facility, or other public work may be
28 combined with the construction of another
29 public agency service, system, facility, or
30 other public work to satisfy the amount
31 specified for the purchase requirements;

1 providing an exemption for any project of a
2 public agency which is committed to an ongoing
3 owner-controlled insurance program issued
4 before October 1, 2007; providing an effective
5 date.

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

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9 Section 1. Section 255.0517, Florida Statutes, is
10 amended to read:

11 255.0517 Owner-controlled insurance programs for
12 public construction projects.--

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

14 (a) "Owner-controlled insurance program" means a
15 consolidated insurance program or series of insurance policies
16 issued to a public agency that may provide one or more of the
17 following types of insurance coverage for any contractor or
18 subcontractor working at specified or multiple contracted work
19 sites of a public construction project: general liability,
20 property damage excluding coverage for damage to real
21 property, workers' compensation, employer's liability, or
22 pollution liability coverage.

23 (b) "Specified contracted work site" means
24 construction being performed during one or more fiscal years
25 at one site or a series of contiguous sites separated only by
26 a street, roadway, waterway, or railroad right-of-way or along
27 a single continuous system ~~for the provision for water and~~
28 ~~power~~.

29 (c) "Multiple contracted work site" means construction
30 being performed at multiple sites during one or more fiscal
31 years that is part of an ongoing capital infrastructure

1 improvement program or involves the construction of one or
2 more public schools.

3 (d) "Capital infrastructure improvement program" means
4 a public agency program involving the construction of a public
5 service, system, facility, or other public work, including,
6 but not limited to, potable water, wastewater, reclaimed
7 water, stormwater, drainage, streets or roads, intermodal
8 transportation, electric service, gas service, airport
9 services or seaport services, and services, systems,
10 facilities, or other public works incidental thereto.

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 all of the following conditions
18 are 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 10 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 Contractors, including any owner or principal acting as a
17 general contractor, and subcontractors performing work under a
18 construction project insured by an owner-controlled insurance
19 program are not required to individually satisfy eligibility
20 requirements for large deductible workers' compensation rating
21 plans. Such contractors and subcontractors may combine their
22 payrolls under the owner-controlled insurance program for
23 workers' compensation coverage as long as the minimum
24 deductible for the construction project is \$100,000 or more
25 and the standard estimated premium for the construction
26 project is \$500,000 or more.

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

29 (3) CAPITAL INFRASTRUCTURE IMPROVEMENT PROGRAM.--The
30 construction of a single public agency service, system,
31 facility, or other public work may not be combined with the

1 construction of another public agency service, system,
2 facility, or other public work to satisfy the amount specified
3 in subparagraph (2)(a)1. unless the multiple services,
4 systems, facilities, or other public works are part of:

5 (a) A capital infrastructure improvement program that
6 will be performed under a single prime contract; or

7 (b) An interrelated capital infrastructure improvement
8 program that interconnects the housing or transportation of
9 persons or cargo arriving via an airport or seaport, and the
10 combined estimated costs of the construction projects exceed
11 \$125 million.

12 ~~(4)(3)~~ EXEMPTIONS.--This section does not apply to the
13 following projects:

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

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

19 (c) Any project of a public agency which is advertised
20 by the public agency before October 1, 2004, for the purpose
21 of receiving bids or proposals for the project; ~~or-~~

22 (d) Any project or projects of a public agency which
23 are committed to an ongoing, owner-controlled insurance
24 program issued before October 1, 2007.

25 Section 2. This act shall take effect October 1, 2007.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1624

The committee substitute provides the following changes related to the use of an owner-controlled insurance programs (OCIPs) by a public agency:

1. Clarifies when a capital infrastructure improvement program at multiple work sites meets the \$75 million threshold requirement in order for the construction project to be eligible to use an OCIP.
2. Provides that individual contractors and subcontractors are not required to individually satisfy premium and payroll eligibility requirements for large deductible workers' compensation rating plans under OCIP if certain conditions are met.
3. Requires an OCIP to provide completed operations coverage for the full 10-year period of liability under the statute of repose.