

Committee Substitute for Senate Bill No. 2696

An act relating to insurance; creating s. 255.0517, F.S.; defining terms; limiting the authority of certain public agencies to purchase owner-controlled insurance programs for public construction projects; establishing purchase requirements; providing exemptions; creating s. 627.441, F.S.; defining terms; requiring insurers issuing 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; providing an effective date.

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

Section 1. 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 any contractor or subcontractor working at specified or multiple contracted work sites of a public construction project: general liability, property damage excluding coverage for damage to real property, workers’ compensation, employer’s liability, or pollution liability coverage.

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

(c) “Multiple contracted work site” means construction being performed at multiple sites during one or more fiscal years that is part of an ongoing capital infrastructure improvement program or involves the construction of one or more public schools.

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

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

1. Seventy-five million dollars or more;
2. Thirty million dollars or more, if the project is for the construction or renovation of two or more public schools during a fiscal year; or

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

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

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

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

(e) The program does not include surety insurance.

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

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

(3) EXEMPTIONS.—This section does not apply to the following projects:

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

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

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

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

627.441 Commercial general liability policies; coverage to contractors for completed operations.—

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

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

(b) "Liability insurer" means an insurer issuing a commercial general liability insurance policy in this state to a contractor that provides coverage

for liability arising out of completed operations performed by the contractor or on the contractor's behalf.

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

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

Approved by the Governor June 24, 2004.

Filed in Office Secretary of State June 24, 2004.