

4952

2011-2012 Regular Sessions

I N S E N A T E

May 2, 2011

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to authorizing the state, public corporations and public authorities to provide wrap-up insurance programs and surety bonds for their public building and construction projects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2504 of the insurance law is amended to read as  
2 follows:

3 S 2504. Designation of particular insurer, agent or broker for insur-  
4 ance in certain public construction contracts. (a) (1) No officer or  
5 employee of this state, or of any public corporation as defined in  
6 section sixty-six of the general construction law, or of any public  
7 authority, and no person acting or purporting to act on behalf of such  
8 officer, employee, public corporation or public authority, shall, with  
9 respect to any public building or construction contract which is about  
10 to be, or which has been, competitively bid, require the bidder to make  
11 application to any particular insurance company, agent or broker for or  
12 to obtain or procure therefrom, any surety bond or contract of insurance  
13 specified in connection with such contract, or specified by any law,  
14 general, special or local.

15 (2) In paragraph one hereof, "public corporation" and "public authori-  
16 ty" shall not include:

17 (A) a public corporation or public authority created pursuant to  
18 agreement or compact with another state, or

19 (B) the city of New York, a public corporation or public authority, in  
20 connection with the construction of electrical generating and trans-  
21 mission facilities or construction, extensions and additions of light  
22 rail or heavy rail rapid transit and commuter railroads.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (b) [No such officer or employee, and no person, firm or corporation  
2 acting or purporting to act on behalf of such officer or employee, shall  
3 negotiate, make application for, obtain or procure any of such surety  
4 bonds or contracts of insurance (except contracts of insurance for  
5 builders risk or owners protective liability) which can be obtained or  
6 procured by the bidder, contractor or subcontractor] THIS SECTION SHALL  
7 NOT PREVENT THE STATE, A PUBLIC CORPORATION OR PUBLIC AUTHORITY, OR ANY  
8 PERSON, FIRM OR CORPORATION ACTING OR PURPORTING TO ACT ON ITS BEHALF,  
9 FROM PROVIDING SURETY BONDS OR INSURANCE POLICIES REQUIRED BY ANY PUBLIC  
10 BUILDING OR CONSTRUCTION CONTRACT WITHOUT REIMBURSEMENT FROM THE  
11 CONTRACTOR OR SUBCONTRACTOR, OR FROM REQUIRING THAT A CONTRACTOR OR  
12 SUBCONTRACTOR ACCOUNT FOR, OR OTHERWISE PROVIDE A CREDIT IN HIS OR HER  
13 BID WHICH REFLECTS, THE AMOUNT THE BIDDING CONTRACTOR OR SUBCONTRACTOR  
14 WOULD OTHERWISE ADD IF HE OR SHE PROVIDED HIS OR HER OWN INSURANCE AS  
15 REQUIRED IN THE BID SPECIFICATIONS.

16 (c) This section shall not[, however,] prevent the exercise by such  
17 officer or employee on behalf of the state or such public corporation or  
18 public authority of its right to approve the form, sufficiency, or  
19 manner of execution, of surety bonds or contracts of insurance furnished  
20 by the insurance company selected by the bidder to underwrite such bonds  
21 or contracts.

22 (D) Any provisions in any invitation for bids, or in any of the  
23 contract documents, WHICH ARE in conflict [herewith] WITH THE PROVISIONS  
24 OF THIS SECTION are contrary to the public policy of this state.

25 S 2. This act shall take effect immediately.