S T A T E O F N E W Y O R K

4952--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to authorizing any city with a population of one million or more to provide wrap-up insurance programs and surety bonds for their public building and construction projects; and providing for the repeal of such provisions upon expiration thereof

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

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

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

(2) In paragraph one hereof, "public corporation" and "public authority" shall not include:

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

(B) the city of New York, a public corporation or public authority, in connection with the construction of electrical generating and trans-

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

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mission facilities or construction, extensions and additions of light rail or heavy rail rapid transit and commuter railroads.

(b) [No] EXCEPT AS SET FORTH BELOW, NO such officer or employee, and no person, firm or corporation acting or purporting to act on behalf of such officer or employee, shall negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance (except contracts of insurance for builders risk or owners protective liability) which can be obtained or procured by the bidder, contractor or subcontractor. NOTWITHSTANDING THE ABOVE, THIS SECTION SHALL NOT PREVENT, FOR ANY CONTRACT THAT IS SUBJECT TO A PROJECT LABOR AGREEMENT PURSUANT TO SECTION TWO HUNDRED TWENTY-TWO OF THE LABOR LAW, ANY CITY WITH A POPULATION OF ONE MILLION OR MORE, OR ANY PERSON, FIRM OR CORPORATION ACTING OR PURPORTING TO ACT ON ITS BEHALF, FROM PROVIDING SURETY BONDS OR INSURANCE POLICIES REQUIRED BY ANY PUBLIC BUILDING OR CONSTRUCTION CONTRACT WITHOUT REIMBURSEMENT FROM THE CONTRACTOR OR SUBCONTRACTOR, OR FROM REQUIRING THAT A CONTRACTOR OR SUBCONTRACTOR ACCOUNT FOR, OR OTHERWISE PROVIDE A CREDIT IN HIS OR HER BID WHICH REFLECTS, THE AMOUNT THE BIDDING CONTRACTOR OR SUBCONTRACTOR WOULD OTHERWISE ADD IF HE OR SHE PROVIDED HIS OR HER OWN INSURANCE AS REQUIRED IN THE BID SPECIFICATIONS.

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

(D) Any provisions in any invitation for bids, or in any of the contract documents, in conflict herewith are contrary to the public policy of this state.

S 2. This act shall take effect immediately and shall apply to contracts for which a solicitation was issued within five years of the effective date of this act. Except with regard to such contracts, this act shall expire and be deemed repealed five years after the date on which it shall have taken effect.