

4834

2013-2014 Regular Sessions

I N S E N A T E

April 25, 2013

Introduced by Sen. LANZA -- 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 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:

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] OF THIS SUBSECTION, "public corporation"  
16 and "public authority" 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.

LBD10592-01-3

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

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

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

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31 deemed repealed five years after such effective date.