

# STATE OF NEW YORK

10362--A

## IN ASSEMBLY

May 21, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Wallace) --  
read once and referred 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 the use of  
owner-controlled and contractor-controlled insurance; and to amend  
chapter 602 of the laws of 2023, amending the insurance law relating  
to exempting certain public construction projects from certain  
restrictions, in relation to expanding a report on the use of owner-  
controlled and contractor-controlled insurance

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Paragraph 2 of subsection (a) of section 2504 of the insur-  
2 ance law, subparagraphs (A) and (B) as amended and subparagraph (C) as  
3 added by chapter 602 of the laws of 2023, is amended to read as follows:  
4 (2) In paragraph one hereof, "public corporation" and "public authori-  
5 ty" shall not include:  
6 (A) a public corporation or public authority created pursuant to  
7 agreement or compact with another state,  
8 (B) the city of New York, a public corporation or public authority, in  
9 connection with the construction of electrical generating and trans-  
10 mission facilities or construction, extensions and additions of light  
11 rail or heavy rail rapid transit and commuter railroads, [~~or~~]  
12 (C) the city of New York, the city school district of the city of New  
13 York, the New York city industrial development agency, the New York city  
14 health and hospitals corporation, or the New York city housing authori-  
15 ty, in connection with a contract the principal purpose of which is  
16 construction that (i) has an estimated cost of no less than five million  
17 dollars or (ii) is subject to an owner-controlled insurance program for  
18 projects, provided that any contract undertaken pursuant to this subpar-  
19 agraph that has an estimated cost of five million dollars or more may  
20 only be undertaken pursuant to a project labor agreement as such term is  
21 defined in section two hundred twenty-two of the labor law, or

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

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1 (D) the state of New York, a school district, an industrial develop-  
2 ment agency, a municipality, a public authority, or a municipal  
3 authority, in connection with a contract, the principal purpose of which  
4 is construction, that is subject to an owner-controlled insurance  
5 program for projects, provided that any contract undertaken pursuant to  
6 this subparagraph may only be undertaken pursuant to a project labor  
7 agreement as such term is defined in section two hundred twenty-two of  
8 the labor law.

9 § 2. Section 2 of chapter 602 of the laws of 2023, amending the insur-  
10 ance law relating to exempting certain public construction projects from  
11 certain restrictions, is amended to read as follows:

12 § 2. A report shall be submitted no later than September 30, [2024]  
13 2025 and annually thereafter, to the governor, the temporary president  
14 of the senate and the speaker of the assembly by the [~~city of New York~~  
15 department of financial services on behalf of [~~its~~] state agencies, [~~the~~  
16 ~~New York city housing authority, the city school district of the city of~~  
17 ~~New York, the New York city industrial development agency, and the New~~  
18 ~~York city health and hospitals corporation~~] school districts, industrial  
19 development agencies, public authorities, municipalities and municipal  
20 authorities in the state containing information regarding each contract  
21 subject to an insurance program authorized pursuant to this act. Such  
22 report shall include for each contract awarded in the preceding fiscal  
23 year: a description of the project to be implemented by such contract;  
24 information regarding the procurement process for each such contract,  
25 including the list of responding entities that demonstrated the general  
26 capability to perform such contract, to the extent such contract was  
27 awarded on a best-value basis or such a list is otherwise available; the  
28 total award value of each contract; and an explanation of the estimated  
29 savings resulting from using owner-controlled or contractor-controlled  
30 insurance in conjunction with such contract. Such report shall also  
31 include for each contract concluding in the preceding fiscal year: a  
32 description of the dispute resolution processes used for insurance or  
33 liability disputes arising during such contract's performance, to the  
34 extent not legally privileged; the total cost of such contract; a  
35 comparative description of work site safety relative to similar  
36 construction projects not subject to an insurance program authorized  
37 under this act; the participation rate of and total dollar value of  
38 monies paid to minority- and women-owned business enterprises, emerging  
39 business enterprises, and locally-based business enterprises certified  
40 pursuant to section 1304 of the New York city charter under such  
41 contracts, and a separate listing of the participation rate of and total  
42 dollar value of monies paid to minority- and women-owned business enter-  
43 prises, emerging business enterprises, and locally-based business enter-  
44 prises for projects using contractor-controlled insurance that cost no  
45 less than five million dollars and no more than twenty-five million  
46 dollars. All state agencies, school districts, industrial development  
47 agencies, public authorities, municipalities and municipal authorities  
48 shall provide all information required by the department of financial  
49 services to complete the report required by this act.

50 § 3. This act shall take effect immediately.