

# STATE OF NEW YORK

9327

## IN SENATE

May 13, 2024

Introduced by Sen. RYAN -- 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 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 Assembly, do enact as follows:

1 Section 1. Paragraph 2 of subsection (a) of section 2504 of the insurance law, subparagraphs (A) and (B) as amended and subparagraph (C) as  
2 added by chapter 602 of the laws of 2023, is amended to read as follows:

3 (2) [~~In paragraph one hereof, "public corporation" and "public authority"~~]  
4 The requirements of paragraph one of this subsection shall not  
5 include:  
6

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

9 (B) the [~~city~~] state of New York, a municipality, a public corporation  
10 or public authority, in connection with the construction of electrical  
11 generating and transmission facilities or construction, extensions and  
12 additions of light rail or heavy rail rapid transit and commuter rail-  
13 roads, or

14 (C) the [~~city~~] state of New York, [~~the city~~] a school district [~~of the~~  
15 ~~city of New York~~], [~~the New York city~~] an industrial development agency,  
16 [~~the New York city health and hospitals corporation, or the New York~~  
17 ~~city housing authority~~] a municipality, public authority or municipal  
18 authority, in connection with a contract the principal purpose of which  
19 is construction that (i) has an estimated cost of no less than five  
20 million dollars or (ii) is subject to an owner-controlled insurance  
21 program for projects, provided that any contract undertaken pursuant to  
22 this subparagraph that has an estimated cost of five million dollars or  
23 more may only be undertaken pursuant to a project labor agreement as  
24 such term is defined in section two hundred twenty-two of the labor law.

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

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

4 § 2. A report shall be submitted no later than September 30, [2024]  
5 2025 and annually thereafter, to the governor, the temporary president  
6 of the senate and the speaker of the assembly by the [~~city of New York~~  
7 department of financial services] on behalf of [~~its~~] state agencies, [~~the~~  
8 ~~New York city housing authority, the city school district of the city of~~  
9 ~~New York, the New York city industrial development agency, and the New~~  
10 ~~York city health and hospitals corporation~~], school districts, indus-  
11 trial development agencies, public authorities, municipalities and  
12 municipal authorities in the state containing information regarding each  
13 contract subject to an insurance program authorized pursuant to this  
14 act. Such report shall include for each contract awarded in the preced-  
15 ing fiscal year: a description of the project to be implemented by such  
16 contract; information regarding the procurement process for each such  
17 contract, including the list of responding entities that demonstrated  
18 the general capability to perform such contract, to the extent such  
19 contract was awarded on a best-value basis or such a list is otherwise  
20 available; the total award value of each contract; and an explanation of  
21 the estimated savings resulting from using owner-controlled or contrac-  
22 tor-controlled insurance in conjunction with such contract. Such report  
23 shall also include for each contract concluding in the preceding fiscal  
24 year: a description of the dispute resolution processes used for insur-  
25 ance or liability disputes arising during such contract's performance,  
26 to the extent not legally privileged; the total cost of such contract; a  
27 comparative description of work site safety relative to similar  
28 construction projects not subject to an insurance program authorized  
29 under this act; the participation rate of and total dollar value of  
30 monies paid to minority- and women-owned business enterprises, emerging  
31 business enterprises, and locally-based business enterprises certified  
32 pursuant to section 1304 of the New York city charter under such  
33 contracts, and a separate listing of the participation rate of and total  
34 dollar value of monies paid to minority- and women-owned business enter-  
35 prises, emerging business enterprises, and locally-based business enter-  
36 prises for projects using contractor-controlled insurance that cost no  
37 less than five million dollars and no more than twenty-five million  
38 dollars. All state agencies, school districts, industrial development  
39 agencies, public authorities, municipalities and municipal authorities  
40 shall provide all information required by the department of financial  
41 services to complete the report required by this act.

42 § 3. This act shall take effect immediately.