

STATE OF NEW YORK

9327--A

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 -- 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 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 shall not include:
5 (A) a public corporation or public authority created pursuant to
6 agreement or compact with another state,
7 (B) the city of New York, a public corporation or public authority, in
8 connection with the construction of electrical generating and transmission
9 facilities or construction, extensions and additions of light
10 rail or heavy rail rapid transit and commuter railroads, [~~or~~]
11 (C) the city of New York, the city school district of the city of New
12 York, the New York city industrial development agency, the New York city
13 health and hospitals corporation, or the New York city housing authority,
14 in connection with a contract the principal purpose of which is
15 construction that (i) has an estimated cost of no less than five million
16 dollars or (ii) is subject to an owner-controlled insurance program for
17 projects, provided that any contract undertaken pursuant to this subparagraph
18 that has an estimated cost of five million dollars or more may
19 only be undertaken pursuant to a project labor agreement as such term is
20 defined in section two hundred twenty-two of the labor law, or
21

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.