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 Assembly, do enact as follows:

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

(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,

(B) the city of New York, a public corporation or public authority, in connection with the construction of electrical generating and transmission facilities or construction, extensions and additions of light rail or heavy rail rapid transit and commuter railroads, [~~or~~]

(C) the city of New York, the city school district of the city of New York, the New York city industrial development agency, the New York city health and hospitals corporation, or the New York city housing authority, in connection with a contract the principal purpose of which is construction that (i) has an estimated cost of no less than five million dollars or (ii) is subject to an owner-controlled insurance program for projects, provided that any contract undertaken pursuant to this subparagraph that has an estimated cost of five million dollars or more may only be undertaken pursuant to a project labor agreement as such term is 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.

LBD15222-03-4

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

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

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

§ 3. This act shall take effect immediately.