STATE OF NEW YORK

9327--B

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 -- 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 in relation to requiring reports on contracts subject to 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~~.~~

(D) the state department of transportation in connection with a contract or contracts, the principal purpose of which is construction or reconstruction of state route 33, also known as the Kensington Expressway, and the Humboldt Parkway, in the city of Buffalo, that (i) has an estimated cost of no less than five million dollars, or (ii) that is

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

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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,

(E) the state university of New York at Buffalo, in coordination with the state university construction fund as created pursuant to article eight-A of the education law, the principal purpose of which is construction at the state university of New York at Buffalo and shall include without limitation the empire AI research institute authorized pursuant to section three hundred sixty-one of the economic development law, in connection with a contract or contracts that (i) has an estimated cost of no less than five million dollars, or (ii) 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, or

(F) the Niagara Frontier transportation authority as established pursuant to article five of the public authorities law in connection with a contract or contracts, the principal purpose of which is construction to extend or expand the railroad in the Niagara Frontier transportation district, that (i) has an estimated cost of no less than five million dollars, or (ii) 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. A report shall be submitted no later than September 30, 2025 and annually thereafter, to the governor, the temporary president of the senate and the speaker of the assembly by the office of general services in coordination with and on behalf of the department of transportation, state university of New York at Buffalo, and the Niagara Frontier transportation authority 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 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 for projects using contractor-controlled insurance that cost no less than five million dollars and no more than twenty-five million dollars.

§ 3. This act shall take effect immediately.