



House of Representatives

General Assembly

File No. 56

February Session, 2004

House Bill No. 5207

House of Representatives, March 15, 2004

The Committee on Insurance and Real Estate reported through REP. OREFICE of the 37th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING OWNER-CONTROLLED INSURANCE PROGRAMS ON STATE AND MUNICIPAL CONSTRUCTION PROJECTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-41 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Each contract exceeding fifty thousand dollars in amount for the
4 construction, alteration or repair of any public building or public work
5 of the state or of any subdivision thereof shall include a provision that
6 the person to perform the contract shall furnish to the state or the
7 subdivision on or before the award date, a bond in the amount of the
8 contract which shall be binding upon the award of the contract to that
9 person, with a surety or sureties satisfactory to the officer awarding
10 the contract, for the protection of persons supplying labor or materials
11 in the prosecution of the work provided for in the contract for the use
12 of each such person, provided no such bond shall be required to be

13 furnished (1) in relation to any general bid in which the total estimated
14 cost of labor and materials under the contract with respect to which
15 such general bid is submitted is less than fifty thousand dollars, (2) in
16 relation to any sub-bid in which the total estimated cost of labor and
17 materials under the contract with respect to which such sub-bid is
18 submitted is less than fifty thousand dollars, or (3) in relation to any
19 general bid or sub-bid submitted by a consultant, as defined in section
20 4b-55, as amended. Any such bond furnished shall have as principal
21 the name of the person awarded the contract.

22 (b) Nothing in this section or sections 49-41a to 49-43, inclusive,
23 shall be construed to limit the authority of any contracting officer to
24 require a performance bond or other security in addition to the bond
25 referred to in subsection (a) of this section, except that no such officer
26 shall require a performance bond in relation to any general bid in
27 which the total estimated cost of labor and materials under the contract
28 with respect to which such general bid is submitted is less than
29 twenty-five thousand dollars or in relation to any sub-bid in which the
30 total estimated cost of labor and materials under the contract with
31 respect to which such sub-bid is submitted is less than fifty thousand
32 dollars.

33 (c) No contract for the construction, alteration or repair of any
34 public building or public work of the state or of any subdivision
35 thereof that requires a person to supply the state or subdivision with a
36 bond may include a provision that requires the person to obtain the
37 bond from a specific surety, agent, broker or producer. No contracting
38 officer may require that a bond be obtained from a specific surety,
39 agent, broker or producer.

40 (d) No contract for the construction, alteration or repair of any
41 public building or public work of the state or of any subdivision
42 thereof may include a provision that allows or requires the state or any
43 subdivision thereof to maintain an owner-controlled insurance
44 program, except for a contract for (1) an individual project estimated to
45 cost one hundred million dollars or more, or (2) a project approved

46 pursuant to section 10a-109e.

| | |
|--|---------------------|
| This act shall take effect as follows: | |
| Section 1 | <i>from passage</i> |

INS *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 05 \$ | FY 06 \$ |
|-----------------------|----------------------------|-----------------------|-----------------------|
| Treasurer, Debt Serv. | GF - Precludes Cost Saving | Potential Significant | Potential Significant |

Note: GF=General Fund

Municipal Impact:

| Municipalities | Effect | FY 05 \$ | FY 06 \$ |
|------------------------|-----------------------|-----------------------|-----------------------|
| Various Municipalities | Precludes Cost Saving | Potential Significant | Potential Significant |

Explanation

This bill prohibits contracts for state or municipal construction projects from including a provision that allows or requires an owner-controlled insurance program (OCIP) except in cases where the cost of a single project is over \$100 million or if the project is part of the UConn 2000 infrastructure renewal program. The bill also prohibits the “bundling” of smaller to medium sized construction projects under an OCIP (known as a “rolling wrap-up.”)

OCIPs are estimated to reduce hard construction project costs by 1-3% for state and municipal construction projects. Currently, OCIPs are being used on single construction projects that cost less than \$100 million, and on the “bundling” of a number of smaller to medium sized construction projects. The bill precludes a debt service cost savings to the state and municipalities to the degree that using OCIPs would have reduced the cost of those future capital construction projects under \$100 million or “bundled” projects, and thereby reduced the need for bond funds. This assumes that OCIPs would only be used in cases where it would be less expensive than traditional insurance coverage.

OCIPs allow the state or a municipality to purchase a master insurance program covering all construction and contractors associated with a given project. Under traditional construction coverage, contractors and subcontractors provide their own insurance coverage. With OCIPs, contractors submit their bids net of insurance costs.

OLR Bill Analysis

HB 5207

AN ACT CONCERNING OWNER-CONTROLLED INSURANCE PROGRAMS ON STATE AND MUNICIPAL CONSTRUCTION PROJECTS**SUMMARY:**

This bill prohibits contracts to build, alter, or repair public buildings or works from permitting or requiring the state or a municipality to maintain an owner-controlled insurance program, except for (1) individual projects estimated to cost \$100 million or more or (2) any project approved as a "UConn 2000" infrastructure improvement project.

EFFECTIVE DATE: Upon passage

BACKGROUND***Owner-Controlled Insurance Program (OCIP)***

In an OCIP, the owner of the project purchases insurance for other participants in the construction project and administers the loss-prevention program for the project. The OCIP will cover the owner; contractor; subcontractors; and, sometimes, the designer. The coverage can include general liability, builder's risk, workers' compensation, design errors and omissions, excess, umbrella, and other special coverage. The owner requires the other project participants to reduce their bid prices by eliminating their usual insurance costs in exchange for the owner-provided coverage. An OCIP administrator runs the program, acts as an agent of the owner, and is usually selected by the insurance broker. When an owner implements an OCIP, participation is mandatory for the contractor and subcontractors.

UConn 2000 Projects

UConn 2000 projects are special capital improvement projects proposed by the University of Connecticut, approved by the state, and identified in the law as needed to modernize, rehabilitate, renew, expand, and otherwise stabilize the university's physical plant. The

projects are meant to benefit the educational and economic development needs of the state and university (CGS § 10a-109(c)(25)).

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Report
Yea 17 Nay 1