
SUBSTITUTE HOUSE BILL 3006

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representative L. Thomas)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to public projects; amending RCW 48.30.270; adding
2 a new section to chapter 48.18 RCW; and adding a new section to chapter
3 43.19 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.18 RCW
6 to read as follows:

7 (1) For the purposes of this section:

8 (a) "Project" means a construction project, a plant expansion, or
9 improvements within Washington with an aggregate construction value in
10 excess of one hundred million dollars that is to be completed within
11 any five-year period. "Project" does not mean a series of unrelated
12 construction projects artificially aggregated to satisfy the fifty
13 million-dollar requirement.

14 (b) "Project sponsor" means public bodies undertaking to construct
15 a project in excess of fifty million dollars.

16 (c) "Public body" means a state agency, department, or
17 instrumentality of the state, the state board for community and
18 technical colleges, any state institution of higher education, any

1 county, city, town, school district, special district, or other
2 municipal or quasi-municipal corporation.

3 (d) "Director" means the director of the department of general
4 administration.

5 (2) An insurer approved or eligible under chapter 48.15 RCW to
6 transact insurance in this state may issue with the prior approval of
7 the director, in consultation with the insurance commissioner, a policy
8 of insurance covering and insuring the project sponsor, the prime
9 contractor under a contract for the construction of a project, any
10 contractors or subcontractors with whom the prime contractor may enter
11 into contracts for the purpose of fulfilling its contractual
12 obligations in the construction of the project and any other
13 contractors engaged by a project sponsor to provide architectural or
14 other design services, engineering services, construction management
15 services, other consulting services relating to the design and
16 construction of the project, or any combination thereof.

17 (3) The director, upon application of any insurer, may approve the
18 insurance policy to any grouping of the entities described in
19 subsection (2) of this section if:

20 (a) The grouping was formed for the purpose of performing a
21 contract or a series of related contracts for the design and
22 construction of a project for the project sponsor;

23 (b) The project sponsor or prime contractor can reasonably
24 demonstrate that the formation and operation of the grouping will
25 substantially improve accident prevention and claims handling to the
26 benefit of the project sponsor or prime contractor and the contractors
27 and workers employed by the project sponsor or prime contractor on
28 construction related projects;

29 (c) The established rating and auditing standards required by
30 authorized advisory organizations and rating organizations are adhered
31 to;

32 (d) The insurer for the grouping guarantees insurance coverage of
33 the classes of insurance issued to the grouping to any contractor who,
34 because of participation in the group, has been unable to maintain the
35 contractor's normal coverage. The insurer's obligation under this
36 subsection (3)(d) continues until twelve months after substantial
37 completion of the contractor's work;

1 (e) By permitting this grouping for a project sponsor, greater
2 opportunities will be made available for minority and women-owned
3 enterprises to bid on this project;

4 (f) The project insurers agree to provide not less than sixty days'
5 notice to all insured parties of the cancellation of any material
6 reduction in coverage for the project;

7 (g) The insurance coverage for the grouping contains a severability
8 of interest clause with respect to liability claims between individuals
9 insured under the group policy and includes contractual liability
10 coverage that applies to the various contracts and subcontracts entered
11 into in connection with this project; and

12 (h) The insurer enters into an escrow agreement with the state
13 treasurer creating an escrow account and the insurer places into the
14 escrow account twenty-five thousand dollars per fifty million dollars
15 of construction project value, or an amount prescribed by rule by the
16 director, whichever is greater. The escrow agreement shall provide
17 that the money in the account may be invested by the state treasurer
18 and earn interest. The escrow agreement shall contain the purpose of
19 the escrow account, conditions for the release of money from the escrow
20 account, and other terms and conditions determined by the director.

21 (4) This section does not apply to industrial insurance under Title
22 51 RCW.

23 (5) This section does not apply to performance bonds described in
24 chapter 39.04 RCW, bid bonds, or other surety bonds required as a
25 condition of a certificate of registration described in RCW 18.27.040.

26 (6) The director may adopt rules to implement or administer this
27 section, including rules:

28 (a) Stating the necessary attributes that a construction project of
29 a project sponsor and the participants in the project must have in
30 order to qualify for the grouping permitted under this section. The
31 rules may include matters regarding an appropriate trust agreement for
32 the special deposit and adjustment of the construction project value
33 according to an appropriate cost index;

34 (b) Establishing a process for a public body agency to evaluate the
35 purchase of insurance authorized by this section, or any related
36 agreements; and

37 (c) Encouraging local governments to involve the department early
38 in the process of obtaining an insurance policy under this section.

1 (7) The insurance commissioner shall assist the director in
2 administering this section, particularly subsection (3)(c) of this
3 section.

4 (8) No new insurance policy may be issued under this section after
5 June 30, 2005.

6 **Sec. 2.** RCW 48.30.270 and 1983 2nd ex.s. c 1 s 6 are each amended
7 to read as follows:

8 (1) No officer or employee of this state, or of any public agency,
9 public authority or public corporation except a public corporation or
10 public authority created pursuant to agreement or compact with another
11 state, and no person acting or purporting to act on behalf of such
12 officer or employee, or public agency or public authority or public
13 corporation, shall, with respect to any public building or construction
14 contract which is about to be, or which has been competitively bid,
15 require the bidder to make application to, or to furnish financial data
16 to, or to obtain or procure, any of the surety bonds or contracts of
17 insurance specified in connection with such contract, or specified by
18 any law, general, special or local, from a particular insurer or agent
19 or broker.

20 (2) No such officer or employee or any person, acting or purporting
21 to act on behalf of such officer or employee shall negotiate, make
22 application for, obtain or procure any of such surety bonds or
23 contracts of insurance, except contracts of insurance for builder's
24 risk or owner's protective liability, which can be obtained or procured
25 by the bidder, contractor or subcontractor.

26 (3) This section shall not be construed to prevent the exercise by
27 such officer or employee on behalf of the state or such public agency,
28 public authority, or public corporation of its right to approve the
29 form, sufficiency or manner or execution of the surety bonds or
30 contracts of insurance furnished by the insurer selected by the bidder
31 to underwrite such bonds, or contracts of insurance.

32 (4) Any provisions in any invitation for bids, or in any of the
33 contract documents, in conflict with this section are declared to be
34 contrary to the public policy of this state.

35 (5) A violation of this section shall be subject to the penalties
36 provided by RCW 48.01.080.

1 (6) This section shall not apply to the public nonprofit
2 corporation authorized under RCW 67.40.020, or to insurance policies
3 under section 1 of this act.

4 NEW SECTION. Sec. 3. A new section is added to chapter 43.19 RCW
5 to read as follows:

6 The director of general administration may approve an insurance
7 policy that covers or wraps up all the entities involved in a public
8 project in excess of one hundred million dollars as provided in section
9 1 of this act.

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