

HOUSE BILL REPORT

SSB 6687

As Reported By House Committee On:
Local Government

Title: An act relating to insurance coverage for port districts.

Brief Description: Allowing port districts to acquire insurance coverage.

Sponsors: Senate Committee on Commerce, Trade, Housing & Financial Institutions
(originally sponsored by Senators Prentice, Winsley, McDonald and T. Sheldon).

Brief History:

Committee Activity:

Local Government: 2/21/00, 2/24/00 [DP].

Brief Summary of Substitute Bill

- Port districts can obtain owner controlled insurance for large construction projects whose costs exceed \$100 million.
- Port districts may also purchase insurance covering their contractors, subcontractors, board members, officers, and employees who act in good faith in performance of their official duties.
- The authority expires December 31, 2006.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 8 members: Representatives Mulliken, Republican Co-Chair; Scott, Democratic Co-Chair; Doumit, Democratic Vice Chair; Mielke, Republican Vice Chair; Edwards; Ericksen; Fisher and Fortunato.

Staff: Scott MacColl (786-7106).

Background:

The commissioners of a port district may purchase liability insurance to protect their officials and employees against liability for personal and bodily injuries and property

damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

The board of commissioners of a Port district is also authorized to purchase insurance to protect and hold harmless commissioners, officers, employees, and agents from any action, claim, or proceeding arising out of the performance for, or in good faith of duties of, the port district.

Whenever a public body contracts with another person to do any work for the public body, the public body must require the person to have a good and sufficient bond to ensure that such persons perform all provisions of the contract. Current law states that a public entity may not require contractors to use the insurance requested by the public entity.

When building large projects, contractors in Washington are required to obtain insurance to cover general liability and excess liability for their portion of the construction project. However, large projects can obtain insurance coverage by using an owner controlled insurance program (OCIP), or "wrap-up" insurance.

Summary of Bill:

Port districts are authorized to purchase owner controlled insurance for contracts in excess of \$100 million dollars, based on its determination of risks, hazards, and liabilities of a project. The district may also purchase insurance for its commissioners, commissions, and employees to insure against liability for acts performed in good faith as part of official duties.

For the purposes of this act, port districts are exempt from the statute that prohibits public entities from requiring contractors to use the insurance requested by the public entity, thus granting port districts the authority to use owner controlled insurance until December 31, 2006.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This ensures that the owner of a large public project can get insurance that is tailor-made to the project. This will eliminate gaps in coverage, create less confusion, yet doesn't allow the port to purchase workers compensation insurance. The Port of Seattle faces \$5 to \$6 billion dollars in capital projects, and

this will save them money. This also gives the owner more leverage with insurance companies, and makes sure the insurance will cover everyone. Owner controlled policies create fewer claims, and allows for coordinated safety rules because all projects are covered under a single policy.

Most states allow "wrap-up" insurance for large projects. The Port of Portland has guaranteed rates for 10 years on a policy for large projects. The smaller, independent policies are more costly for the public agency.

Testimony Against: The real cost savings in wrap-up insurance is in including workers compensation to the insurance, which this bill doesn't do. Without the workers compensation insurance included, there is no cost savings. The flip side of having owners with lots of leverage with insurers is that small subcontractors lose the ability to negotiate with owners over insurance. The smaller insurers will fight for the small subcontractors in disputes with the owner. Having this ability for publicly financed projects allows large insurers from out of state to write the policies, and leaves out the local, small insurers.

Testified: (Support) Basil Badley, American Insurance Association; Terry Finn, Port of Seattle; and Linda Strout, Port of Seattle.

(Against) Bill Stauffacher, Independent Insurance Agents and Brokers of Washington.