
HOUSE BILL 3006

State of Washington

55th Legislature

1998 Regular Session

By Representative L. Thomas

Read first time 01/27/98. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to public projects; amending RCW 18.27.050; adding
2 a new section to chapter 48.01 RCW; adding a new section to chapter
3 51.16 RCW; and adding a new section to chapter 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 48.01 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 fifty million dollars that is to be completed within any
11 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 to transact insurance in this state may
6 issue with the prior approval of the director a policy of insurance
7 covering and insuring the project sponsor, the prime contractor under
8 a contract for the construction of a project, any contractors or
9 subcontractors with whom the prime contractor may enter into contracts
10 for the purpose of fulfilling its contractual obligations in the
11 construction of the project and any other contractors engaged by a
12 project sponsor to provide architectural or other design services,
13 engineering services, construction management services, other
14 consulting services relating to the design and construction of the
15 project, or any combination thereof.

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

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

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

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

30 (d) The insurer for the grouping guarantees adequate protection to
31 any other insurance agency or agent that demonstrates that without the
32 protection the agency or agent will suffer losses that will constitute
33 a threat to the continuation of the business of the agency or agent;

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

1 (f) 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 (g) 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 (h) 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 (i) 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; and

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.

37 The director shall work with the director of the department of
38 labor and industries to coordinate projects seeking an insurance policy

1 under this section and workers' compensation coverage under one
2 certificate under section 2 of this act.

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

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.16 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 fifty million dollars that is to be completed within any
11 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
19 county, city, town, school district, special district, or other
20 municipal or quasi-municipal corporation.

21 (2) The department shall create a program to allow a prime
22 contractor for a project sponsor to secure payment of compensation
23 under this title by extending certification to all entities performing
24 any work or services under contract who are also covered by the
25 insurance policy under section 1 of this act. The extension of
26 certification invokes all duties and obligations as provided in this
27 title.

28 (3) For purposes of this section, all employees performing work or
29 services on the project for the group covered by the insurance policy
30 provided under section 1 of this act are deemed employees of the prime
31 contractor for workers' compensation coverage under this section. This
32 section only applies to workers' compensation coverage for the project
33 and shall not be deemed to create any employer-employee relationships
34 for any other purpose.

35 (4) The certification and coverage extended under this section to
36 employees of the prime contractor, contractors, and subcontractors
37 under contract on the project shall be for the term of the contract and

1 extend only to claims arising out of work or services performed under
2 the contract.

3 (5) The director may adopt rules to implement this section. The
4 director shall coordinate with the director of the department of
5 general administration regarding projects seeking an insurance policy
6 under section 1 of this act and workers' compensation coverage under
7 one certificate under this section.

8 (6) No new workers' compensation coverage under this section may be
9 issued after June 30, 2005.

10 **Sec. 3.** RCW 18.27.050 and 1987 c 303 s 1 are each amended to read
11 as follows:

12 (1) At the time of registration and subsequent reregistration, the
13 applicant shall furnish insurance or financial responsibility in the
14 form of an assigned account in the amount of twenty thousand dollars
15 for injury or damages to property, and fifty thousand dollars for
16 injury or damage including death to any one person, and one hundred
17 thousand dollars for injury or damage including death to more than one
18 person or financial responsibility to satisfy these amounts.

19 (2) Failure to maintain insurance or financial responsibility
20 relative to the contractor's activities shall be cause to suspend or
21 deny the contractor his or her or their registration.

22 (3)(a) Proof of financial responsibility authorized in this section
23 may be given by providing, in the amount required by subsection (1) of
24 this section, an assigned account acceptable to the department. The
25 assigned account shall be held by the department to satisfy any
26 execution on a judgment issued against the contractor for damage to
27 property or injury or death to any person occurring in the contractor's
28 contracting operations, according to the provisions of the assigned
29 account agreement. The department shall have no liability for payment
30 in excess of the amount of the assigned account.

31 (b) The assigned account filed with the director as proof of
32 financial responsibility shall be canceled at the expiration of three
33 years after:

34 (i) The contractor's registration has expired or been revoked; or

35 (ii) The contractor has furnished proof of insurance as required by
36 subsection (1) of this section;

1 if, in either case, no legal action has been instituted against the
2 contractor or on the account at the expiration of the three-year
3 period.

4 (c) If a contractor chooses to file an assigned account as
5 authorized in this section, the contractor shall, on any contracting
6 project, notify each person with whom the contractor enters into a
7 contract or to whom the contractor submits a bid that the contractor
8 has filed an assigned account in lieu of insurance and that recovery
9 from the account for any claim against the contractor for property
10 damage or personal injury or death occurring in the project requires
11 the claimant to obtain a court judgment.

12 (4) This section does not apply to any contractor that has
13 insurance coverage under section 1 of this act.

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

16 The director of general administration may approve an insurance
17 policy that covers or wraps up all the entities involved in a public
18 project in excess of fifty million dollars as provided in section 1 of
19 this act.

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