

Amendment No. 180

Assembly Amendment to Assembly Bill No. 156

(BDR 28-858)

Proposed by: Committee on Government Affairs**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend section 1, page 2, by deleting lines 23 and 24 and inserting:

“additional insured in an insurance policy held by the design professional ~~[-]~~, *if the policy allows such an addition.*”.

Amend section 1, pages 2 and 3, by deleting lines 32 through 35 on page 2 and lines 1 through 4 on page 3, and inserting:

“5. ~~[May]~~ *Except as otherwise provided in this subsection, may* require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys’ fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. *If the insurer by which the design*

AM/MSM

Date: 4/21/2005

A.B. No. 156—Revises provisions governing terms of certain contracts between public bodies and certain design professionals.

professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional. As used in this subsection, "agents" means those persons who are directly involved in and acting on behalf of the public body in furtherance of the contract or the public work to which the contract pertains."

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law establishes mandatory, optional and prohibited provisions in a contract for the provision of services in connection with a public work entered into between a public body and a design professional who is not a member of a design-build team. The contract must include provisions relating to payment and costs for enforcement of the contract. In addition, the contract may include provisions relating to a discount for prompt payment, the terms by which the design professional agrees to name the public body at its own cost as an additional insured in an insurance policy held by the design professional and a requirement that the design professional defend, indemnify and hold harmless the public body and its employees, officers and agents in certain matters arising out of the acts or omissions of the design professional or his employees or agents in the performance of the contract. The contract may not, however, require the design professional to defend, indemnify or hold harmless the public body or its employees, officers or agents in certain matters arising out of the acts or omissions of the employees, officers or agents of the public body. (NRS 338.155)

This bill clarifies that a design professional may not name a public body as an additional insured unless the applicable insurance policy allows such an addition. This bill also provides that if the insurer by which the design professional is insured against professional liability does not defend a public body and its employees, officers and agents in a matter arising out of certain acts or omissions of the design professional or his employees or agents in the performance of the contract and the

design professional is adjudicated to be liable by a trier of fact, the trier of fact is required to award reasonable attorney's fees to be paid to the public body by the design professional in an amount that is proportionate to the liability of the design professional.