



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

CONSTRUCTION BONDS: EXEMPT DRAINS

House Bill 4598 as introduced
First Analysis (5-11-89)

Sponsor: Rep. Thomas L. Hickner
Committee: Agriculture

RECEIVED

JUN 06 1

Mich. State Law Library

THE APPARENT PROBLEM:

After the 1986 summer convention of the Michigan Association of County Drain Commissioners, an Ad Hoc Committee on Insurance and Contractor Bonding was formed to address some of the issues raised at the convention. The committee was composed of drain commissioners, contractors, insurance representatives, state legislators, and lawyers. In addition to dealing with the issue of contractor bonding, the committee also expressed concern over the possible conflict between the Drain Code and another state law (Public Act 312 of 1963) regarding contractor bonding for public projects. To eliminate any possible confusion because of potential conflict between these two laws, the committee recommended that P.A. 213 be amended to specifically exclude contracts under the Michigan Drain Code.

THE CONTENT OF THE BILL:

The bill would amend Public Act 213 of 1963, which provides procedures for bonding contractors for public works, adding a new section to exempt contracts awarded under the Drain Code from the act's provisions. The bill is tie-barred to House Bill 4456, which would allow drain commissioners to accept various forms of security (including co-signers) from successful bidders on drain contracts of \$100,000 or more.

MCL 129.212

FISCAL IMPLICATIONS:

Fiscal information is not available. (5-10-89)

ARGUMENTS:

For:

Public Act 213 requires that all public works projects costing more than \$50,000 have performance and payment bonds in amounts not less than 25 percent of the contract amount. In addition, the act also specifically prohibits the use of "personal sureties" (co-signers). The Drain Code, on the other hand, requires that drain commissioners set a bond for successful bidders on drain contracts that at least equal the amount of the contract, and does not set a threshold for applying bonding requirements (all successful bids, regardless of the contract amount, must be bonded). If, as the attorneys on the committee believe, P.A. 312 of 1963 applies to Drain Code projects, this would mean that the laws conflict to the extent that they establish different bonding amounts (with P.A. 312 requiring bonds in amounts of at least 25 percent of the contract, while the Drain Code requires bonds in amounts at least equal to the contract price) and to the extent that one act establishes threshold amounts before the bonding requirements are applied, while the other does not. The bill would resolve these potential conflicts by exempting Drain Code projects from the requirements of Public Act 213.

POSITIONS:

There are no positions on the bill.

H.B. 4598 (5-1-89)