



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 628 & 629 (as introduced 9-12-95)
Sponsor: Senator Walter H. North
Committee: Local, Urban and State Affairs

Date Completed: 5-14-96

CONTENT

The bills would amend two acts to provide that contracts between the State or a local unit of government and a contractor for the construction or repair of public buildings or public works, would require a “good and sufficient performance and payment bond”, meaning a bond properly executed by a surety company authorized by the Insurance Bureau to do business in Michigan.

Senate Bill 628 would amend Public Act 187 of 1905, which insures the payment of subcontractors, laborers, and suppliers used in the construction or repair of public buildings and public works. Currently, the Act provides that if a project is to be built under contract at the expense of the State or a local unit, it is the duty of the governmental unit to require sufficient bond for the payment by the contractor of all subcontractors, labor, and materials. In addition to requiring a good and sufficient performance and payment bond, the bill provides that if the State or a local unit failed to obtain a bond as required by the bill, the State or local unit would be liable for the contractor's or other third party's failure to make payment to any person entitled to recover under the bond.

Currently, a contractor who is a common carrier operating under the Common Carrier Act, or the operator of a State subsidized railroad, may provide an irrevocable letter of credit from a State or national bank or a Federally chartered savings and loan, instead of the required bond. The bill would allow the line of credit to be provided by a credit union, also.

Senate Bill 629 would amend Public Act 213 of 1963, which provides for bonding contractors for public buildings and public works. Currently, before any contract exceeding \$50,000 for the construction or repair of a public building or public work of the State or a local unit is awarded, the proposed contractor must furnish to the State or local unit a performance bond and a payment bond that is binding upon the award of the contract. In addition to requiring a good and sufficient performance and payment bond, the bill provides that if the State or a local unit failed to obtain the required bond the State or local unit would be liable for a failure by the contractor or other third party to make payment to any person entitled to recover, under the bond.

Currently, the payment bond must be in an amount that is at least 25% of the contract amount. The bill would require the bond to be in an amount that was at least 75% of the contract amount.

Currently, a contractor who is a common carrier operating under the Common Carrier Act, or the operator of a State subsidized railroad, may provide an irrevocable letter of credit from a State or

national bank or a Federally chartered savings and loan, instead of the required bond. The bill would allow the line of credit to be provided by a credit union, also.

MCL 570.101 (S.B. 628)
129.201 et al. (S.B. 629)

Legislative Analyst: G. Towne

FISCAL IMPACT

The liability of government entities would increase for public works projects to ensure payments to contractors and subcontractors up to 75% of the contract amount.

Fiscal Analyst: R. Ross

S9596\S628SA

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.