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BILL ANALYSIS



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Senate Bill 629 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Walter H. North
Committee: Local, Urban and State Affairs

CONTENT

The bill would amend Public Act 213 of 1963, which provides for bonding contractors for public buildings and public works, 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; the surety company would have to be listed in the most current issue of the U.S. Department of Treasury's "Circular 570". The contractor would have to attach to the bond a certificate, on a form approved by the Insurance Bureau, verifying that the bond was good and sufficient. 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 anyone entitled to recover under the bond.

The bill would require the principal contractor to furnish to each subcontractor, before performance on a contract, a copy of the bond or letter of credit required under the bill. The subcontractor could void its contract with the principal contractor if the principal contractor failed to provide a copy of the bond or letter of credit as required in the bill.

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 100% of the contract amount.

The bill would require the Department of Consumer and Industry Services to maintain a copy of the most current "Circular 570" and make it available upon request for review by the public. (The "Circular 570" is published by the U.S. Department of Treasury as a register of bonding and surety companies that fulfill Federal requirements.)

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 letter of credit to be provided by a credit union, also.

MCL 129.201 et al.

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 100% of the contract amount.

Date Completed: 9-12-96

Fiscal Analyst: R. Ross

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