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SFA**BILL ANALYSIS**

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Senate Bill 713 (as reported with amendments)
Sponsor: Senator Walter H. North
Committee: Human Resources, Labor and Veterans 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.

Currently, before any contract exceeding \$50,000 for the construction or repair of a public building or public work of the State or 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. The bill would require a good and sufficient performance and payment bond and 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 Act. 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. Under the bill, the bond would have to be at least 100% of the contract amount. Currently, the payment bond must be in an amount that is at least 25% of the contract amount. "Good and sufficient performance and payment bond" would mean a bond properly executed by a surety company that was an authorized insurer as defined in the Insurance Code.

Furthermore, the bill provides that if the State or a county, city, village, township, or school district failed to obtain a bond as required, 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. The governmental unit, however, would not be liable under this provision when the person claiming the right to recover under the bond or letter of credit had not fully performed as required by the contract for construction, alteration, or repair.

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 also would allow the letter of credit to be provided by a credit union.

MCL 129.201 et al.

Legislative Analyst: N. Nagata

FISCAL IMPACT

Government entities that failed to obtain a bond as required would be liable to ensure payments to contractors and subcontractors. However, government entities would not be liable if contractors and subcontractors did not perform fully as required by the contract for construction, alteration, or repair.

Date Completed: 11-12-97

Fiscal Analyst: R. Ross

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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.