



**House  
Legislative  
Analysis  
Section**

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**SECURITY BONDS FOR DRAIN JOBS**

**RECEIVED**

**OCT 03 1988**

**House Bill 5730**

**Sponsor: Rep. Dick Allen Mich. State Law Library,  
Committee: Towns and Counties**

**Complete to 8-25-88**

**A SUMMARY OF HOUSE BILL 5730 AS INTRODUCED 6-2-88**

The Drain Code requires, among other things, a successful bidder on a drain job to file with the county drain commissioner a surety bond or note of indemnity insurance to be used as security against the contractor's promise to finish the job as specified in the contract. The bill would require successful bidders for drain contracts, at the drain commissioner's option, to submit security in various forms in addition to the surety bond or note of indemnity insurance currently required.

At the option of the county drain commissioner, the security would have to be in one or more of the following forms:

- cash or certified check;
- a performance bond executed by a state-licensed insurance company;
- an escrow agreement acceptable to the commissioner; or
- an irrevocable letter of credit issued by a state- or federally-regulated financial institution.
- "personal surety" acceptable to the commissioner and subject to the following conditions:

- the personal surety would have to be an experienced contractor, able to perform and complete the contract on time if the successful bidder defaulted on the contract;

- a personal surety could not act as such for more than one other principal contractor during the contract term for which the surety is responsible;

- a contract could not specify more than two personal sureties as security on any single job;

- the personal surety would have to provide financial information requested by the commissioner, which, upon his or her review, indicated to the commissioner that the surety was capable of performing the specified contract;

- the personal surety would have to give to the commissioner a list of all contracts for which the surety had already contracted (as primary contractor), naming the parties, amounts, work to be performed, and scheduled dates of the contracts; if conflicts arose between these contracts and the contract under which the contractor was acting as personal surety, the personal surety would have to schedule his or her list of contracted obligations around the job for which he or she had

contracted as security; and

-- should the successful bidder default on a contract, the personal surety would have to either complete the project (as specified in the original contract) within the time limits specified by the commissioner, or pay to the drainage district the amount necessary to pay another contractor to complete the contract, as determined by the commissioner.

If a contract was not completed according to its written terms, the security would have to be used to complete the contract.

The bill would apply to all contracts exceeding \$100,000. For contracts less than \$100,000, the commissioner could require security that he or she considered necessary, consistent with provisions in the bill. The commissioner, at his or her discretion, could require that additional types of bonds or security be used.

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