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**SFA****BILL ANALYSIS**

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Senate Bill 712 (as reported with amendments)  
Sponsor: Senator Walter H. North  
Committee: Human Resources, Labor and Veterans Affairs

### **CONTENT**

The bill 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) to require a "good and sufficient performance and payment bond".

Currently, if a public building or other public work is to be built, repaired, or ornamented 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, contract wages, contract benefits, and materials. The bill would require a good and sufficient performance and payment bond. ("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 State, county, city, village, township, or school district, however, would not be liable under this provision when a 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 570.101

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: 11-13-97

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.