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SFA**BILL ANALYSIS**

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Senate Bills 712 and 713 (as introduced 9-30-97)
Sponsor: Senator Walter H. North
Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 11-6-97

CONTENT

Senate Bill 712 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, and **Senate Bill 713** 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.

"Good and sufficient performance and payment bond" would mean a bond properly executed by a surety company authorized by the Insurance Bureau to do business in the State and 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.

Furthermore, the bills provide that if the State or a county, city, village, township, or school district failed to obtain a bond as required by the bills, 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 bills 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.

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

Senate Bill 712

Currently, the Act provides that 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, and materials. The bill would require a good and sufficient performance and payment bond.

Senate Bill 713

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.

The bill also 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 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.

Under the bill, the bond would be required 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.

MCL 570.101 (S.B. 712)
129.201 et al. (S.B. 713)

Legislative Analyst: N. Nagata

FISCAL IMPACT

Government entities that did not obtain a bond as required would be liable to ensure payments to contractors and subcontractors.

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.