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BILL ANALYSIS

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Senate Bill 628 (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 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 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 the contractor to furnish 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, the Act provides that if a project is to be built 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 that the bond also provide for the payment of contract wages and benefits. 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 a bond as required by the bill, 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 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 570.101

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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