

SENATE BILL NO. 598

June 10, 1997, Introduced by Senators BULLARD, DUNASKISS, SHUGARS, BYRUM, O'BRIEN, EMMONS, KOIVISTO, MC MANUS and STEIL and referred to the Committee on Government Operations.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending section 237 (MCL 18.1237).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 237. (1) The department shall provide for the develop-
2 ment of studies, designs, plans, specifications, and contract
3 documents relative to the acquisition, construction, improvement,
4 or demolition of facilities.

5 (2) The department shall provide for the selection and
6 employment of architects and professional engineers, subject to
7 rules of the department of civil service, to do all of the
8 following:

9 (a) To study, design, prepare, and review plans and
10 specifications for the ACQUISITION, construction, ~~of, repairing~~

1 ~~of, making additions to~~ IMPROVEMENT, OR remodeling of ~~—, or~~
2 ~~acquisition of,~~ facilities.

3 (b) To administer construction work.

4 (3) The department shall provide resident inspectors if the
5 department considers it necessary for on site observation of the
6 construction of facilities.

7 (4) The department may obtain independent testing services
8 to provide quality control of work performed on facilities.

9 (5) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
10 THAT ADDED THIS SUBSECTION, NOTWITHSTANDING ANY OTHER PROVISION
11 OF THIS ACT, THE TEXT OF ALL CONTRACTS, GENERAL CONDITIONS, SPEC-
12 IFICATIONS, PLANS, AND DOCUMENTS FOR THE ACQUISITION, CONSTRUC-
13 TION, IMPROVEMENT, OR DEMOLITION OF FACILITIES SHALL BE DETER-
14 MINED BY RULES PROMULGATED BY THE DEPARTMENT UNDER THE ADMINIS-
15 TRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
16 24.328. IN PROMULGATING RULES, ALL THE FOLLOWING SHALL APPLY:

17 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THIS
18 STATE IS RESPONSIBLE FOR THE ADEQUACY OF PROJECT DESIGN.
19 CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS, EXCEPT DESIGN CON-
20 TRACTORS, ARE NOT RESPONSIBLE FOR PROJECT DESIGN. DESIGN CON-
21 TRACTORS ARE RESPONSIBLE TO THIS STATE FOR PROJECT DESIGN, EXCEPT
22 IF THE DESIGN CONTRACTOR HAS BEEN PROVIDED WITH PREDESIGNED COM-
23 PONENTS BY THIS STATE.

24 (B) CONTRACT DUTIES AND RESPONSIBILITIES SHALL BE ALLOCATED
25 TO THE PARTY BEST ABLE TO CONTROL THE RISK OF NONHAPPENING OR
26 NONPERFORMANCE. IF A PARTY OTHER THAN THIS STATE IS NOT ABLE TO

1 BEST CONTROL THE RISK OF NONHAPPENING OR NONPERFORMANCE, THEN
2 THAT DUTY OR RESPONSIBILITY SHALL BE ALLOCATED TO THIS STATE.

3 (C) THE TEXT OF ALL CONTRACTS, GENERAL CONDITIONS, SPECIFI-
4 CATIONS, PLANS, AND DOCUMENTS SHALL BE UNAMBIGUOUS, AND IN PLAIN
5 ENGLISH, AND UNDERSTANDABLE BY THE USERS OF THE DOCUMENTS.

6 (D) CONSISTENT CUSTOMS AND PRACTICES OF THE CONSTRUCTION
7 INDUSTRY SHALL BE USED RATHER THAN SPECIFYING NEW CUSTOMS OR
8 PRACTICES.

9 (6) PENDING THE PROMULGATION OF RULES AS REQUIRED IN SUBSEC-
10 TION (5), THE DEPARTMENT SHALL USE THE CONTRACTS, GENERAL CONDI-
11 TIONS, SPECIFICATIONS, PLANS, AND DOCUMENTS THAT THE DEPARTMENT
12 USED ON OR BEFORE MAY 1, 1997.

13 (7) THE DEPARTMENT SHALL NOT ISSUE AN ADMINISTRATIVE OR PRO-
14 CEDURAL DIRECTIVE INCONSISTENT WITH THIS SECTION.

15 (8) THE ATTORNEY GENERAL MAY ASSESS A FEE FOR LEGAL SERVICES
16 AS MAY BE REQUESTED BY THE DEPARTMENT FOR REVIEW OF CONSTRUCTION
17 CONTRACTS UNDER THIS ACT.