
Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 598 (as introduced 6-10-97)
Sponsor: Senator Bill Bullard, Jr.
Committee: Government Operations

Date Completed: 7-29-97

CONTENT

The bill would amend the Management and Budget Act to provide that, beginning on the effective date of the bill and notwithstanding any other provision of the Act, the text of all contracts, general conditions, specifications, plans, and documents for the acquisition, construction, improvement, or demolition of facilities would have to be determined by rules promulgated by the Department of Management and Budget (DMB) under the Administrative Procedures Act.

Under the Management and Budget Act, the DMB must provide for the development of studies, designs, and contract documents relative to the acquisition, construction, improvement, or demolition of facilities. A facility, under the Act, is a building or structure (including the grounds, approaches, services and appurtenances) owned or leased by the State, excluding certain buildings as specified in the Act.

In promulgating the rules all of the following would apply:

- The State would be responsible for the adequacy of project design, while contractors, subcontractors, and suppliers, except design contractors, would not be responsible for project design. Design contractors would be responsible to the State for project design, except if the design contractor had been provided with predesigned components by the State.
- Contract duties and responsibilities would be allocated to the party best able to control the risk of nonhappening or nonperformance. If a party other than the State were not able to best control the risk of nonhappening or nonperformance, then that duty or responsibility would have to be allocated to the State.
- The text of all contracts, general conditions, specifications, plans, and documents would have to be unambiguous, in plain English, and understandable by the users of the documents.
- Consistent customs and practices of the construction industry would have to be used rather than specifying new customs or practices.

Pending the promulgation of rules, the DMB would have to use the contracts, general conditions, specifications, plans, and documents that it used on or before May 1, 1997. The Department could not issue an administrative or procedural directive inconsistent with the bill. The Attorney General could assess a fee for legal services as requested by the Department for review of construction contracts under the Act.

MCL 18.1237

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have an indeterminate fiscal impact. Costs to the Department would depend on the number of public hearings, mailings, and staff time that would be necessary for the promulgation of rules.

Fiscal Analyst: M. Ortiz
B. Bowerman

S9798\S598SA

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.