

Legislative Analysis



REQUIRE PRELIMINARY ENVIRONMENTAL ASSESSMENTS OF SCHOOL BUILDING SITES

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House Bill 5271

Sponsor: Rep. Rashida Tlaib

Committee: Great Lakes and Environment

Complete to 3-3-10

A SUMMARY OF HOUSE BILL 5271 AS INTRODUCED 8-19-09

The bill would amend the Revised School Code to prohibit the board of a school district, intermediate school district, or public school academy (charter school) from acquiring a site for a school building or constructing a school building without first conducting a preliminary environmental assessment. Under the bill, "school building" means buildings intended for the instruction of pupils as well as recreational and athletic structures or fields for use by pupils.

The purpose of the environmental assessment would be to determine whether the site was a "facility" as defined in Part 201 (Environmental Remediation) of the Natural Resources and Environmental Protection Act. Generally speaking, Part 201 of that act defines "facility" as a property where a hazardous substance exceeding specified concentrations was located unless a response activity or corrective action has been completed to specified residential standards.¹ If the preliminary assessment indicated that the site was a "facility," the board could not acquire the site or a construct a school building on it unless the board completed the "response activity" required for the facility under Part 201. In general, "response activity" means the actions necessary to protect public health, safety, or welfare or the environment or natural resources, including health assessments or health effect studies supervised by or approved by the Department of Community Health, and related enforcement actions.²

MCL 380.1264

¹The full definition of "facility" is as follows: "'Facility' means any area, place, or property where a hazardous substance in excess of the concentrations which satisfy the requirements of Section 20120a(1)(a) or (17) or the cleanup criteria for unrestricted residential use under Part 213 [Leaking Underground Storage Tanks] has been released, deposited, disposed of, or otherwise comes to be located. Facility does not include any area, place, or property at which response activities have been completed which satisfy the cleanup criteria for the residential category provided for in Section 20120a(1)(a) and (17) or at which corrective action has been completed under Part 213 which satisfies the cleanup criteria for unrestricted residential use." MCL 324.20101(o)

²The full definition of "response activity" is as follows: "'Response activity' means evaluation, interim response activity, remedial action, demolition, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources. Response activity also includes health assessments or health effect studies carried out under the supervision, or with the approval of, the Department of Public Health and enforcement actions related to any response activity." MCL 324.20101(ee). (The Department of Public Health is now known as the Department of Community Health.)

FISCAL IMPACT:

Under current law, as amended by Executive Order 2009-33, the Department of Energy, Labor, and Economic Growth - Bureau of Construction Codes is responsible for the approval of all school construction, reconstruction, remodeling, and site plans and enforcement of the Construction of School Buildings Act and the Stille-DeRossett-Hale Single State Construction Code Act. Requiring school districts to complete a preliminary assessment would increase the documentation that is submitted to the Bureau of Construction Codes. The Construction of School Buildings Act also allows the Bureau of Construction Codes to delegate the responsibility for the administration and enforcement of the act to a local unit of government enforcing agency if the school board and the local unit annually certify to the bureau that full-time code officials, inspectors, and plan reviewers registered under the Buildings Official and Inspectors Registration Act will conduct the plan reviews and inspection of school buildings. In this regard, the bill would also require the environmental assessment to be submitted to the local enforcing agency. The department notes that the additional documentation requirements may result in delays in the approval process if the documentation is not submitted to the bureau early in the site selection and design process.

The bill would create additional costs for a school district by requiring that they do preliminary environmental assessments before purchasing a site to build a school or athletic facility; however, this is currently recommended practice so districts may already be doing this. If doing a preliminary assessment prevented a district from purchasing property which later required remediation, it could create savings under those circumstances.

A formal Public Health Consultation or Public Health Assessment may be conducted at sites of environmental contamination by the Department of Community Health in cooperation with a federal public health agency, the Agency for Toxic Substances and Disease Registry (ATSDR). This work is funded by the ATSDR.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.