

HOUSE BILL No. 5862

March 14, 2006, Introduced by Reps. Proos, Farhat, Kolb, Taub, Hood, Brown, Marleau, Hansen, Caswell, Gaffney, LaJoy, Schuitmaker, Hildenbrand, Kahn, Polidori, Caul, Nofs, Sheltroun, Baxter, Whitmer, Farrah, Byrnes, Huizenga, Rocca, Wenke, Garfield, Sak, Gleason, Pastor, Stahl, Stewart, Jones, Booher, Angerer, Gillard, McDowell, Byrum, Zelenko, Vagnozzi, Alma Smith, Lipsey, Nitz, Mortimer, Ball, Brandenburg, Amos, Bieda, Moolenaar, David Law, Stakoe, Mayes, Pavlov, Palsrok and Cheeks and referred to the Committee on Appropriations.

A bill to amend 1972 PA 230, entitled
"Stille-DeRossett-Hale single state construction code act,"
by amending sections 3a and 8b (MCL 125.1503a and 125.1508b), as
added by 1999 PA 245.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3a. (1) The state construction code commission is created
2 and consists of **THE STATE FIRE MARSHAL OR AN EMPLOYEE OF THE BUREAU**
3 **OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE PREVENTION CODE,**
4 **1941 PA 207, MCL 29.1B, DESIGNATED BY THE STATE FIRE MARSHAL AND** a
5 designee of the ~~office of fire safety and the~~ chairpersons of the
6 barrier free design board, the electrical administrative board, the
7 state plumbing board, and the board of mechanical rules, who shall
8 be permanent members, and 12 residents of the state to be appointed

1 by the governor with the advice and consent of the senate.
2 Appointed members of the commission shall include 1 person from
3 each of the fields of industrial management, architecture,
4 professional engineering, building contracting, organized labor,
5 premanufactured building, and 3 members representing municipal
6 building inspection; 2 persons from the general public; and a
7 licensed residential builder. A member of the commission shall be
8 appointed for a term of 2 years, except that a vacancy shall be
9 filled for the unexpired portion of the term. A member of the
10 commission may be removed from office by the governor for
11 inefficiency, neglect of duty, or misconduct or malfeasance in
12 office. A member of the commission who has a pecuniary interest in
13 a matter before the commission shall disclose the interest before
14 the commission takes action in the matter, which disclosures shall
15 be made a matter of record in its official proceedings. Each member
16 of the commission, except the state fire marshal or the state fire
17 marshal's designee, shall receive compensation and actual expenses
18 incurred by the member in the performance of the duties as a member
19 of the commission. The per diem compensation of the members and the
20 schedule for reimbursement of expenses shall be established
21 annually by the legislature.

22 (2) Nine members of the commission constitute a quorum. Except
23 as otherwise provided in the commission's bylaws, action may be
24 taken by the commission by vote of a majority of the members
25 present at a meeting. Meetings of the commission may be called by
26 the chairperson or by 3 members on 10 days' written notice. Not
27 less than 1 meeting shall be held each calendar quarter. A meeting

1 of the commission may be held anywhere in this state.

2 (3) The commission shall elect 1 member as chairperson,
3 another as vice-chairperson, and other officers as it determines
4 appropriate, for the terms and with the duties and powers as the
5 commission determines. The chairperson and vice-chairperson of the
6 commission shall be elected from those members appointed to the
7 commission by the governor.

8 (4) The commission is within the department but shall exercise
9 its statutory functions independently of the director, except that
10 budgeting, personnel, and procurement functions of the commission
11 shall be performed under the direction and supervision of the
12 director. The director has the sole statutory authority to
13 promulgate rules.

14 (5) The business that the commission may perform shall be
15 conducted at a public meeting of the commission held in compliance
16 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
17 Public notice of the time, date, and place of the meeting shall be
18 given in the manner required by the open meetings act, 1976 PA 267,
19 MCL 15.261 to 15.275.

20 (6) A writing prepared, owned, used, in the possession of, or
21 retained by the commission in the performance of an official
22 function shall be made available to the public in compliance with
23 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

24 Sec. 8b. (1) Except as otherwise provided in this section, the
25 director is responsible for administration and enforcement of this
26 act and the code. A governmental subdivision may by ordinance
27 assume responsibility for administration and enforcement of this

1 act within its political boundary. A county ordinance adopted
2 pursuant to this act shall be adopted by the county board of
3 commissioners and shall be signed by the chairperson of the county
4 board of commissioners and certified by the county clerk.

5 (2) A governmental subdivision that has assumed the
6 responsibility for administering and enforcing this act and the
7 code may, through its chief legal officer, issue a complaint and
8 obtain a warrant for a violation of this act or the code and
9 prosecute the violation with the same power and authority it
10 possesses in prosecuting a local ordinance violation. If pursuant
11 to section 23, a governmental subdivision has by ordinance
12 designated a violation of the act or code as a municipal civil
13 infraction, the governmental subdivision may issue a citation or
14 municipal ordinance violation notice pursuant to chapter 87 of the
15 revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to
16 600.8735, for a violation of the act or code. Unless otherwise
17 provided by local law or ordinance, the legislative body of a
18 governmental subdivision responsible for administration and
19 enforcement of this act and the code shall designate an enforcing
20 agency that shall discharge the responsibilities of the
21 governmental subdivision under this act. Governmental subdivisions
22 may provide by agreement for joint enforcement of this act.

23 (3) Subject to the other provisions of this act, an enforcing
24 agency is any official or agent of a governmental subdivision that
25 is registered under the building officials and inspectors
26 registration act, 1986 PA 54, MCL 338.2301 to 338.2313, qualified
27 by experience or training to perform the duties associated with

1 construction code administration and enforcement.

2 (4) Before ~~the effective date of this section~~ **DECEMBER 28,**
3 **1999**, the director shall provide each governmental subdivision
4 administering and enforcing this act and the code with a notice of
5 intent form. This form shall set forth the date return receipt is
6 required, which date shall not be less than 60 days. The chief
7 elected official of the governmental subdivision that receives this
8 notice shall indicate on the form the intention of the governmental
9 subdivision as to whether it shall continue to administer and
10 enforce this act and the code and transmit this notice to the
11 director within the prescribed period. If a governmental
12 subdivision fails to submit a notice of intent to continue to
13 administer and enforce this act and the code within the date set
14 forth in the notice, the director shall send a notice by registered
15 mail to the clerk of that governmental subdivision. This notice
16 shall indicate that the governmental subdivision has 15 additional
17 days in which to submit a notice of intent to continue to
18 administer and enforce this act and the code. If the governmental
19 subdivision does not respond by the end of the 15 additional days,
20 it shall be conclusively presumed that the governmental subdivision
21 does not intend to continue to administer and enforce this act and
22 the code and the director shall assume the responsibility for
23 administering and enforcing this act and the code in that
24 governmental subdivision, unless the county within which the
25 governmental subdivision is located submits a notice of intent to
26 continue to administer and enforce this act and the code.

27 (5) A county that is administering and enforcing this act and

1 the code on ~~the effective date of this section~~ **DECEMBER 28, 1999**
2 and that submits a notice of intent to continue to administer and
3 enforce this act and the code pursuant to subsection (4) is
4 responsible for the administration and enforcement of this act and
5 the code for each governmental subdivision within the county that
6 does not submit a notice of intent to continue to administer and
7 enforce this act and the code. The director shall notify the county
8 of those governmental subdivisions that do not submit a notice of
9 intent.

10 (6) A governmental subdivision that, before ~~the effective~~
11 ~~date of this section~~ **DECEMBER 28, 1999**, did not administer and
12 enforce this act and the code may elect to assume the
13 responsibility for the administration and enforcement of this act
14 and the code pursuant to subsection (1) by the passage of an
15 ordinance to that effect. A governmental subdivision that makes
16 this election after ~~the effective date of this section~~ **DECEMBER**
17 **28, 1999** shall submit, in addition to the ordinance, an application
18 to the commission for approval to administer and enforce this act
19 and the code within its jurisdiction. This application shall be
20 made on the proper form to be provided by the commission. The
21 standards for approval shall include, but not be limited to, the
22 certification by the governmental subdivision that the enforcing
23 agency is qualified by experience or training to administer and
24 enforce this act and the code and all related acts and rules, that
25 agency personnel are provided as necessary, that administrative
26 services are provided, that plan review services are provided, and
27 that timely field inspection services will be provided. The

1 director shall seek additional information if the director
2 considers it necessary. The commission shall render a decision on
3 the application for approval to administer and enforce this act and
4 the code and transmit its findings to the governmental subdivision
5 within 90 days of receipt of the application. The commission shall
6 document its reasons, if the commission disapproves an application.
7 A governmental subdivision that receives a disapproval may resubmit
8 its application for approval. Upon receipt of approval from the
9 commission for the administration and enforcement of this act and
10 the code, the governmental subdivision shall administer and enforce
11 this act and the code within its jurisdiction pursuant to the
12 provisions of this act and the application.

13 (7) A governmental subdivision that elects to administer and
14 enforce this act and the code within its jurisdiction by the
15 adoption of an ordinance may rescind that ordinance and transfer
16 the responsibility for the administration and enforcement of this
17 act and the code to the director. The director shall assume the
18 responsibility for administering and enforcing this act and the
19 code in that governmental subdivision, unless the county within
20 which that governmental subdivision is located has submitted a
21 notice of intent to continue to administer and enforce the code.
22 However, that action shall not take effect until 12 months after
23 the passage of an ordinance to that effect. A structure commenced
24 under an effective code shall be completed under that code.

25 (8) The director is responsible for administration and
26 enforcement of this act and the code for buildings and structures
27 that are not under the responsibility of an enforcing agency in

1 those governmental subdivisions that elect to administer and
2 enforce this act and the code. A building or structure owned by the
3 state shall not be erected, remodeled, or reconstructed in the
4 state, except school buildings or facilities or institutions of
5 higher education as described in section 4 of article VIII of the
6 state constitution of 1963, until written approval of the plans and
7 specifications has been obtained from the bureau of construction
8 codes **AND SAFETY** located within the department indicating that the
9 state owned facilities shall be designed and constructed in
10 conformance with the state construction code. The bureau of
11 construction codes **AND SAFETY** shall be the lead agency in the
12 coordination and implementation of this subsection. The bureau of
13 construction codes **AND SAFETY** shall perform required plan reviews
14 and inspections as required by the state construction code. Each
15 department shall secure required plan approvals and permits from
16 the bureau. Fees charged by the bureau for permits shall be in
17 accordance with the commission's approved schedule of fees. State
18 departments and institutions may allow local inspectors to inspect
19 the construction of state owned facilities. However, an inspection
20 conducted by a local inspector shall be of an advisory nature only.

21 (9) This section does not affect the responsibilities of the
22 commission for administration and enforcement of this act under
23 other sections of this act, or responsibilities under the fire
24 prevention code, 1941 PA 207, MCL 29.1 to 29.34; ~~—, except sections~~
25 ~~6 and 7 of the fire prevention code, 1941 PA 207, MCL 29.6 and~~
26 ~~29.7;~~ 1937 PA 306, MCL 388.851 to 388.855a; the fire fighters
27 training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377;

1 1942 (1st Ex Sess) PA 9, MCL 419.201 to 419.205; parts 215 and 217
2 of the public health code, 1978 PA 368, MCL 333.21501 to
3 333.21799e; and section 58 of the social welfare act, 1939 PA 280,
4 MCL 400.58.

5 (10) Pursuant to parts 215 and 217 of the public health code,
6 1978 PA 368, MCL 333.21501 to 333.21799e, the director shall
7 develop consistent construction standards for hospitals and nursing
8 homes. These standards shall ensure that consistent, uniform, and
9 equitable construction requirements and state supervision of the
10 requirements are achieved. This subsection does not preclude a
11 state agency or a governmental subdivision from conducting plan
12 reviews or inspections necessary to ensure compliance with approved
13 construction plans.

14 (11) Except as otherwise provided in this act, this act does
15 not limit or restrict existing powers or authority of governmental
16 subdivisions, and this act shall be enforced by governmental
17 subdivisions in the manner prescribed by local law or ordinance. To
18 the extent not inconsistent with this act, local laws and
19 ordinances relating to administration and enforcement of
20 construction regulations enacted before the effective date of the
21 code by or for a governmental subdivision are applicable to
22 administration and enforcement of the code in that governmental
23 subdivision.

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. 1133 or House Bill No.____ (request no.
26 03197'05 ***) of the 93rd Legislature is enacted into law.