

HOUSE BILL NO. 5538

November 09, 2021, Introduced by Rep. Cambensy and referred to the Committee on Regulatory Reform.

A bill to amend 1937 PA 306, entitled

"An act to promote the safety, welfare, and educational interests of the people of this state by regulating the construction, reconstruction, and remodeling of, and the installation of certain security devices at, certain public or private school buildings or additions to those buildings and by regulating the construction, reconstruction, and remodeling of, and the installation of certain security devices at, buildings leased or acquired for school purposes; to define the class of buildings affected by this act; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts,"

by amending sections 1, 1a, and 2 (MCL 388.851, 388.851a, and

388.852), section 1 as amended by 2004 PA 510 and section 2 as amended by 2002 PA 627.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) Except as provided in subsection (2), a school
2 building, public or private, or any additions to a school building,
3 ~~shall must~~ not be erected, **constructed or** remodeled, ~~or~~
4 ~~reconstructed~~ in this state unless all of the following
5 requirements are met:

6 (a) All plans and specifications for buildings ~~shall must~~ be
7 prepared by an architect or professional engineer who is licensed
8 in this state **or a design-builder that employs an architect or**
9 **professional engineer who is licensed in this state and who**
10 **prepared the plans or specifications. An Except as otherwise**
11 **provided in subsection (3), an** architect or professional engineer
12 licensed in this state or another person qualified to supervise
13 construction **or remodeling** shall supervise the construction **or**
14 **remodeling** of a school building. For energy conservation
15 improvements and services under section 1274a of the revised school
16 code, 1976 PA 451, MCL 380.1274a, the ~~licensed architect, or~~
17 professional engineer, **or design-builder** may be directly affiliated
18 with the qualified provider, ~~as defined under that section, that~~
19 is providing the applicable improvements and services. ~~However, the~~
20 **The** specifications for the project ~~shall must~~ be generic in
21 character and, to the extent possible, ~~shall must~~ not include
22 proprietary equipment or technology developed by the qualified
23 provider or in which the qualified provider has an interest.

24 (b) All walls, floors, partitions, and roofs ~~shall must~~ be
25 constructed of fire-resisting materials such as stone, brick, tile,
26 concrete, gypsum, steel, or similar fire-resisting material. All

1 steel members ~~shall~~**must** be protected by at least 3/4 of an inch of
2 fire-resisting material.

3 (c) Wood lath or wood furring ~~shall~~**must** not be used in the
4 construction. This requirement does not prohibit the use of
5 finished wood flooring, wood door and window frames, wood sash, or
6 wood furring and grounds, for the purpose of installing wood trim,
7 panelling, acoustical units, or similar facing materials on masonry
8 walls, structural steel, or concrete ceiling members.

9 (d) ~~Every~~**A** room enclosing a heating unit ~~shall~~**must** be
10 enclosed by walls of fire-resisting materials and ~~shall be~~ equipped
11 with automatically closing fire doors. A heating unit ~~shall~~**must**
12 not be located directly beneath any portion of a school building or
13 addition that is constructed ~~or reconstructed~~ after January 1,
14 2003. This requirement does not require the removal of an existing
15 heating plant from beneath an existing building when an addition to
16 the building is constructed unless the department requires that
17 removal in the interests of ~~the~~ public safety. In any school where
18 natural gas or any other kind of gas is used for heating purposes,
19 **before its use**, the gas ~~shall~~**must** be chemically treated ~~before~~
20 ~~being used~~ in such a manner as to give a very distinguishable odor
21 if a leak develops in the heating system.

22 (e) In a gymnasium, fire-proofings may be omitted from the
23 trusses and purlins if they are more than 16 feet off the main
24 floor level.

25 (f) The architect, ~~or~~**professional** engineer, **or a design-**
26 **builder described in subsection (1) (a)** shall provide adequate exits
27 from all parts of a school building. In all cases, there ~~shall~~**must**
28 be at least 2 stairways and the distance from the door of any ~~class~~
29 **classroom** or assembly room to a stairway or exit ~~shall~~**must** not

1 exceed 100 feet.

2 (g) A requirement in subdivisions (b) to (f) may be waived in
3 writing by the department.

4 (h) Compliance with section 1b.

5 (2) The director of the department shall promulgate rules that
6 establish standards and requirements for the relocation and reuse
7 of used modular classrooms. The rules ~~shall~~**must** require an
8 inspection of ~~a~~**the** relocated used modular classroom at its
9 original location, at its new location, or at any location where
10 repairs are made to the used modular classroom.

11 **(3) Subject to subsection (1), a design-builder that employs**
12 **an architect or a professional engineer licensed in this state may**
13 **construct or remodel a school building, or any additions to the**
14 **school building, if that architect or professional engineer**
15 **directly supervises all of the following:**

16 (a) The construction or remodeling of the school building.

17 (b) The review of the materials used in the construction or
18 remodeling of the school building.

19 (c) The review of the completed phases of the construction or
20 remodeling of the school building.

21 (4) ~~(3)~~As used in this section: ~~,"department"~~

22 (a) **"Department"** means the department of labor and economic
23 ~~growth.opportunity.~~

24 (b) **"Qualified provider"** means that term as defined in section
25 1274a of the revised school code, 1976 PA 451, MCL 380.1274a.

26 Sec. 1a. ~~(1) Words and phrases used in this act shall be~~
27 ~~defined as follows:~~**As used in this act:**

28 (a) ~~"School buildings" shall include all buildings used for~~
29 ~~school purposes.~~**"Addition"** means added space that results in

1 additional cubic contents to an existing school building.

2 (b) "Construction" means the construction, erection,
3 reconstruction, alteration, conversion, demolition, repair, moving,
4 or equipping of buildings or structures.

5 (c) "Design-build construction services" means a project
6 delivery method that meets all of the following requirements:

7 (i) A school district engages the services of a criteria
8 developer who is licensed in this state to do both of the
9 following:

10 (A) Assist the school district in the selection and
11 compensation of a design-builder.

12 (B) Provide for the scope of the services of a design-builder.

13 (ii) A school district contracts with a single individual or
14 entity for both design services and construction services.

15 (iii) Design and construction of the project is either of the
16 following:

17 (A) Sequential, with the entire design complete before
18 construction commences.

19 (B) Concurrent, with the design produced in 2 or more phases
20 and construction of some phases commencing before the entire design
21 is complete.

22 (iv) Selection is a single-phase selection using price and
23 qualification to determine best value.

24 (d) "Design-builder" means an entity that provides design-
25 build construction services and employs 1 or more persons certified
26 in design-build by the Design-Build Institute of America or any
27 other national design-build accreditation program.

28 (e) ~~(b)~~ "Remodeling" ~~shall mean~~ means the alteration,
29 construction, or remodeling of partitions, hallways, stairways, and

means of egress, **and** the replacement, relocation, or reconstruction of heating, ventilating, and sanitary equipment.

~~(c) "Addition" shall mean added space which results in additional cubic contents to existing building.~~

(f) "School building" means a building used for school purposes.

(g) ~~(d) "Total cost" shall be interpreted to mean~~ **means** the monetary worth of the building when ready for occupancy, regardless of the source of funds, labor, or material and ~~shall include~~ **includes** the cost of general construction, plumbing, heating and ventilation, electrical work, all fixed equipment, ~~together with~~ **and** the cost of architects, engineers, and building superintending services.

(2) ~~(e) A building having~~ **that has** a basement ~~shall be~~ **is** considered to be a 2 story building for the purposes of this act.

Sec. 2. (1) The ~~licensed architect, or~~ **professional engineer, or design-builder described in section 1(1)(a)** preparing the plans and specifications of a school building is responsible for assuring that the design documents provide for a structure with sufficient structural strength and fire resistance and that the building will meet all applicable codes, standards, and regulations.

(2) The person supervising the construction of a school building is responsible for the construction of the school building in conformance with the approved plans and specifications prepared by the ~~licensed architect, or~~ **professional engineer, or design-builder described in section 1(1)(a).**

(3) A person that violates this section is subject to all of the following:

(a) A state civil infraction punishable by a civil fine of not

1 more than \$10,000.00.

2 (b) If the person knowingly violated this section, a
3 misdemeanor punishable by a fine of not more than \$10,000.00 or
4 imprisonment for not more than 180 days, or both.

5 (4) A design-builder performing construction services under
6 this act is permitted to self-perform part of the construction work
7 if and to the extent agreed to in writing by the school district
8 and the design-builder.