

Act No. 255
Public Acts of 2003
Approved by the Governor
December 23, 2003
Filed with the Secretary of State
December 29, 2003
EFFECTIVE DATE: December 29, 2003

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Senators Kuipers and Allen

ENROLLED SENATE BILL No. 482

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1274a (MCL 380.1274a), as amended by 1990 PA 227.

The People of the State of Michigan enact:

Sec. 1274a. (1) The board of a school district, intermediate school district, or local act school district may contract with a qualified provider for energy conservation improvements to school facilities. These improvements may be paid from operating funds of the school district or from the proceeds of bonds or notes issued for energy conservation improvements, or the board or intermediate school board may enter into 1 or more energy saving performance contracts. These contracts may contain a written financial guarantee providing that the costs of improvements will be paid only if the energy savings are sufficient to cover them. Energy conservation improvements may include, but are not limited to, building envelope improvements; heating and cooling upgrades; lighting retrofits; installing or upgrading an energy management system; motor, pump, or fan replacements; domestic water use reductions; and upgrading other energy consuming equipment or appliances.

(2) A school board or intermediate school board that contracts for energy conservation improvements under subsection (1) may require the qualified provider to furnish a bond that guarantees energy cost savings for a specified period of time.

(3) If a school board or intermediate school board enters into an energy saving performance contract under this section, all of the following apply:

(a) The bids for the contract shall provide a detailed breakdown of the energy performance savings to be derived each year and for the duration of the energy saving performance contract, including at least all of the following:

(i) A description of the guaranteed energy use savings and tasks to be performed under the energy saving performance contract.

(ii) The combined total net cost of all of the energy conservation measures in the project.

(iii) The projected energy savings and operating and maintenance cost savings resulting from the project.

(iv) The useful life of each energy conservation measure.

(v) The simple payback period.

(b) The qualified provider shall certify that measurement and verification techniques for determining cost savings will be performed in accordance with the protocols published in January 2001 by the international performance measurement and verification protocol inc.

(4) The board of a school district, intermediate school district, or local act school district may provide for the removal or treatment of asbestos or other material injurious to health for school facilities and may pay for the improvements from operating funds of the school district or from the proceeds of bonds or notes issued for that purpose.

(5) Issuance of bonds for the purposes authorized by this section shall be considered as issued for capital expenditures for all purposes including section 16 of article IX of the state constitution of 1963.

(6) Energy conservation improvements or substance removal or treatment authorized by this section is subject to the competitive bidding requirements of section 1267.

(7) If energy conservation improvements are made by a school district, local act school district, or intermediate school district as provided in this section, the school board or intermediate school board shall report the following information to the state treasurer within 60 days after the completion of the improvements:

(a) Name of each facility to which an improvement was made and a description of the conservation improvements.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(8) If energy conservation improvements are made as provided in this section, the school board or intermediate school board shall report to the state treasurer by July 1 of each of the 5 years after the improvements are completed the actual annual energy consumption of each facility to which improvements were made. The forms for the reports required by this section shall be furnished by the state treasurer.

(9) As used in this section:

(a) "Energy saving performance contract" means an agreement for the evaluation, recommendation, and implementation of energy conservation measures including, but not limited to, an energy audit or detailed energy study; the design, installation, operation, and maintenance of 1 or more energy conservation measures; energy management services; and an energy savings guarantee.

(b) "Qualified provider" means an individual or a business entity that is experienced in performing design, analysis, and installation of energy conservation improvements and facility energy management measures and that will provide these services under the contract with a guarantee or on a performance basis.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved _____

Governor