

# SENATE BILL No. 1138

March 14, 2006, Introduced by Senators JELINEK, GARCIA, STAMAS, TOY, VAN WOERKOM, HARDIMAN, BIRKHOLZ, BISHOP, KUIPERS, GOSCHKA, CROPSEY and SCHAUER and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1937 PA 306, entitled

"An act to promote the safety, welfare, and educational interests of the people of the state of Michigan by regulating the construction, reconstruction, and remodeling of certain public or private school buildings or additions to such buildings, by regulating the construction, reconstruction, and remodeling of buildings leased or acquired for school purposes, and 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 1b, 3, 4, and 5a (MCL 388.851b, 388.853, 388.854, and 388.855a), section 1b as added by 2002 PA 628.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1b. (1) Except as **OTHERWISE** provided in ~~subsection (5)~~  
2       **THIS ACT**, the department is responsible for the administration and  
3       enforcement of this act and the Stille-DeRossett-Hale single state

1 construction code act, ~~of 1972,~~ 1972 PA 230, MCL 125.1501 to  
2 125.1531, in each school building in this state.

3 (2) Except as provided in subsection (5), a school building  
4 covered by bond issues that were approved by the department of  
5 treasury after July 1, 2003 shall not be constructed, remodeled, or  
6 reconstructed in this state until written approval of the plans and  
7 specifications is obtained from the department indicating that the  
8 school building will be designed and constructed in conformance  
9 with the code. This subsection does not apply to any school  
10 building for which construction is covered by bond issues that were  
11 approved by the department of treasury before July 1, 2003.

12 (3) Responsibility for inspections of school buildings shall  
13 be determined by 1 of the following methods:

14 (a) By an independent third party designated in the contract  
15 governing the construction, remodeling, or reconstruction of a  
16 school building. The independent third party shall be responsible  
17 for all inspections required to insure compliance with the code.  
18 The school authority shall verify that the independent third party  
19 named is knowledgeable about construction practices and codes and  
20 is otherwise qualified to conduct the inspections. The name of the  
21 independent third party to be responsible for conducting  
22 inspections shall be submitted to the department with the plans and  
23 specifications required by subsection (2). If the department  
24 determines that the independent third party is not qualified to  
25 conduct the inspections or is not an independent third party, it  
26 shall disapprove of the designation and notify the school  
27 authority. All inspection reports prepared by the person designated

1 by the school authority under this subdivision shall be sent to the  
2 department upon completion of the inspection. The department may  
3 return the report for further work if there are questions relating  
4 to the scope of the inspection or whether the construction,  
5 remodeling, or reconstruction meets the requirements of the code.

6 (b) If a designation of an independent third party is not made  
7 as required under subdivision (a), the inspections required to  
8 insure compliance with the code will be performed by the department  
9 or as provided under subsection (5).

10 (4) Except as provided in subsection (5), the department shall  
11 perform for school buildings all plan reviews within 60 days from  
12 the date the plans are filed or considered approved and inspections  
13 within 5 business days as required by the code and shall be the  
14 enforcing agency for this act.

15 (5) The department shall delegate the responsibility for the  
16 administration and enforcement of this act to the applicable agency  
17 if both the school board and the governing body of the governmental  
18 subdivision have annually certified to the department, in a manner  
19 prescribed by the department, that full-time code officials,  
20 inspectors, and plan reviewers registered under the building  
21 officials and inspectors registration act, 1986 PA 54, MCL 338.2301  
22 to 338.2313, will conduct plan reviews and inspections of school  
23 buildings.

24 (6) This section does not affect the responsibilities of the  
25 ~~department~~ **BUREAU OF FIRE SERVICES** under the fire prevention code,  
26 1941 PA 207, MCL 29.1 to 29.34. The bureau of construction codes  
27 **AND SAFETY** and the ~~office of fire safety~~ **BUREAU OF FIRE SERVICES**

1 in the department shall jointly develop procedures to use the plans  
2 and specifications submitted in carrying out the requirements of  
3 this act and the fire prevention code, 1941 PA 207, MCL 29.1 to  
4 29.34. A certificate of occupancy shall not be issued by the  
5 appropriate code enforcement agency until a certificate of approval  
6 has been issued under the fire prevention code, 1941 PA 207, MCL  
7 29.1 to 29.34.

8 (7) This section applies to construction, remodeling, or  
9 reconstruction of school buildings that are covered by bond issues  
10 that were approved by the department of treasury after July 1,  
11 2003. Construction, remodeling, or reconstruction of school  
12 buildings that are covered by bond issues approved before July 1,  
13 2003 shall submit the plans and specifications to the department  
14 for approval under section 1. The department shall not grant  
15 approval until it has received the certification described in  
16 section 3 relative to fire safety and from the appropriate health  
17 department relative to water supply, sanitation, and food handling.

18 (8) As used in this section:

19 (a) "Code" means the state construction code provided for in  
20 the Stille-DeRossett-Hale single state construction code act, 1972  
21 PA 230, MCL 125.1501 to 125.1531.

22 (b) "Construction" ~~shall have the same meaning as~~ **MEANS** that  
23 term ~~is~~ **AS** defined ~~under~~ **IN** section 2a of the Stille-DeRossett-  
24 Hale single state construction code act, 1972 PA 230, MCL  
25 125.1502a.

26 (c) "Department" means the department of ~~consumer and~~  
27 ~~industry services~~ **LABOR AND ECONOMIC GROWTH**.

1       Sec. 3. (1) Except as ~~hereinafter~~ provided **IN SUBSECTION**  
 2       (2), the ~~state fire marshal~~ **BUREAU OF FIRE SERVICES CREATED IN**  
 3       **SECTION 1B OF THE FIRE PREVENTION CODE, 1941 PA 207, MCL 29.1B,**  
 4       shall inspect ~~any~~ **A SCHOOL** building to determine whether ~~or not~~  
 5       ~~the~~ **ITS** construction ~~thereof~~ complies with ~~the provisions of~~  
 6       this act. ~~Each building shall be inspected by the state fire~~  
 7       ~~marshal~~ **THE BUREAU OF FIRE SERVICES SHALL INSPECT EACH BUILDING** at  
 8       least twice during construction, ~~1 inspection to be made of~~ **ONCE**  
 9       **TO INSPECT** the ~~frame work~~ **FRAMEWORK** of the building ~~prior to~~  
 10       **BEFORE** plastering and ~~1 inspection shall be made~~ **ONCE** on the  
 11       completion of the building. The ~~architect~~ **PERSON SUPERVISING**  
 12       **CONSTRUCTION OF THE SCHOOL BUILDING** shall notify the ~~state fire~~  
 13       ~~marshal~~ **BUREAU OF FIRE SERVICES** when the building is ready for  
 14       inspection. ~~With respect to such inspections,~~ **IN MAKING AN**  
 15       **INSPECTION UNDER THIS SUBSECTION,** the ~~state fire marshal shall~~  
 16       ~~have~~ **BUREAU OF FIRE SERVICES HAS** the ~~same~~ powers ~~as~~ set forth  
 17       in ~~Act No. 207 of the Public Acts of 1941, as amended, being~~  
 18       ~~sections 29.1 to 29.25 of the Compiled Laws of 1948~~ **THE FIRE**  
 19       **PREVENTION CODE, 1941 PA 207, MCL 29.1 TO 29.34.**

20       (2) The ~~state fire marshal shall~~ **BUREAU OF FIRE SERVICES IS**  
 21       not ~~be~~ required to inspect or make ~~any~~ **A** determination of fire  
 22       safety in ~~any~~ **AN** existing school building ~~insofar as~~ **IN**  
 23       **RELATION TO** operation, maintenance, remodeling, or repairs, ~~for~~  
 24       ~~fire safety is concerned, nor shall he be required~~ **OR** to inspect  
 25       ~~any~~ **A** school building to determine whether ~~or not~~ its  
 26       construction complies with this act, if ~~such~~ **THE** school building  
 27       is located in a municipality where both the school board and the

1 governing body of the municipality ~~in which such a school is~~  
 2 ~~located~~ have certified to the ~~state~~ superintendent of public  
 3 instruction, in a manner prescribed by ~~him~~ **THE SUPERINTENDENT**,  
 4 that the fire safety inspections and fire safety measures for the  
 5 schools located in the municipality are provided for by a municipal  
 6 code or ordinance ~~that is~~ administered and enforced by a full-  
 7 time fire prevention and safety department, division, or bureau  
 8 maintained by the municipality and are satisfactory to both ~~such~~  
 9 **THE** school board and **THE** governing body. Either ~~such~~ **THE** school  
 10 board or **THE** governing body may rescind the certification. ~~Before~~  
 11 ~~such~~ **A** certification ~~can~~ **UNDER THIS SUBSECTION SHALL NOT** be  
 12 submitted to **OR ACCEPTED BY** the superintendent of public  
 13 instruction ~~, or such certification accepted by him,~~ **UNLESS** the  
 14 municipality ~~shall first receive~~ **HAS RECEIVED** from the ~~state~~  
 15 ~~fire safety board,~~ **BUREAU OF FIRE SERVICES** written attestation ~~to~~  
 16 ~~the effect~~ that ~~(a)~~ the municipality has an ordinance or code  
 17 for fire protection in schools equal to the minimum state  
 18 requirements ~~, and (b) the municipality~~ has a full-time fire  
 19 prevention inspection service ~~having~~ **WITH** a qualified program of  
 20 school plan review and inspection. The state fire safety board  
 21 shall ~~act as a hearing body in accordance with Act No. 197 of the~~  
 22 ~~Public Acts of 1952, as amended, to review and render decisions on~~  
 23 ~~any contested case when properly appealed to~~ **HEAR AND DECIDE AN**  
 24 **APPEAL FROM A DECISION MADE UNDER THIS SECTION AS A CONTESTED CASE**  
 25 **UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL**  
 26 **24.201 TO 24.328.** After a hearing, the board, acting in accordance  
 27 with its statutory authority and provisions, may vary the

1 application of any school fire safety rule or may modify the ruling  
 2 or interpretation of the ~~municipality~~ **MUNICIPAL** enforcing  
 3 authority ~~when in its opinion~~ **IF THE BOARD DECIDES THAT** the  
 4 enforcement would do manifest injustice and would be contrary to  
 5 the public interest. A decision of the board to vary the  
 6 application of any fire safety rule, or to modify or change a  
 7 ruling of the municipal enforcing authority, shall specify in what  
 8 manner the variation, modification, or change is made, the  
 9 conditions upon which it is made, and the reasons ~~therefore~~ **FOR**  
 10 **THE VARIATION, MODIFICATION, OR CHANGE.**

11 Sec. 4. The license or registration of ~~any~~ **AN** architect or  
 12 engineer convicted of violating ~~any of the provisions of~~ this act  
 13 shall be revoked. ~~Any~~ **A** school officer, ~~or~~ member of ~~any~~ **A**  
 14 school board, or other person ~~neglecting or refusing~~ **WHO NEGLECTS**  
 15 **OR REFUSES** to do or perform any act required ~~of him~~ by this act,  
 16 or ~~violating~~ **WHO VIOLATES** or knowingly ~~permitting or consenting~~  
 17 **PERMITS OR CONSENTS** to any violation of ~~the provisions of~~ this  
 18 act, ~~shall be deemed~~ **IS** guilty of a misdemeanor ~~and on~~  
 19 ~~conviction shall be punished~~ **PUNISHABLE** by a fine ~~not exceeding~~  
 20 **OF NOT MORE THAN** \$500.00 or ~~by~~ imprisonment ~~in the county jail~~  
 21 ~~not exceeding~~ **FOR NOT MORE THAN** 3 months, or ~~by~~ both. ~~such fine~~  
 22 ~~and imprisonment in the discretion of the court.~~ Any violation of  
 23 this act may be enjoined in ~~a proceeding instituted~~ **AN ACTION**  
 24 **BROUGHT** by the ~~state fire marshal, such proceedings to be brought~~  
 25 **BUREAU OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE**  
 26 **PREVENTION CODE, 1941 PA 207, MCL 29.1B,** in the circuit court ~~in~~  
 27 ~~chancery in~~ **FOR** the county in which ~~said~~ **THE** school buildings

1 are or will be situated.

2       Sec. 5a. (1) Except as ~~hereinafter~~ provided ~~the provisions~~  
 3 ~~of~~ **IN THIS SECTION**, this act ~~shall~~ **DOES** not apply to 1-story  
 4 school buildings, ~~or~~ to 1-story additions ~~thereto nor shall it~~  
 5 ~~apply, except as hereinafter provided~~ **TO SCHOOL BUILDINGS, OR** to  
 6 the construction, reconstruction, or remodeling of ~~any~~ **A** school  
 7 building ~~where~~ **IF** the total cost of ~~such~~ construction,  
 8 reconstruction, or remodeling is less than \$15,000.00.

9       (2) ~~Subdivision (a) of section 1 of this act shall apply~~  
 10 **SECTION 1(A) APPLIES** to the construction of all school buildings  
 11 and additions to school buildings regardless of the number of  
 12 stories of ~~such~~ **THE** buildings or additions ~~where~~ **IF** the total  
 13 cost of ~~such~~ construction ~~shall exceed~~ **EXCEEDS** \$15,000.00.

14       (3) ~~Subdivision (d) of section 1 shall apply~~ **SECTION 1(D)**  
 15 **APPLIES** to the construction of all school buildings and additions  
 16 ~~thereto~~ **TO SCHOOL BUILDINGS** of 1 or more stories regardless of the  
 17 cost of ~~their~~ construction.

18       (4) ~~The provisions of this act shall also apply~~ **THIS ACT**  
 19 **APPLIES** to the reconstruction of a school building destroyed or  
 20 partially destroyed by fire, windstorm, or other catastrophe if  
 21 more than 50% ~~per cent~~ of the entire building is ~~so~~ destroyed.  
 22 The ~~state fire marshal~~ **BUREAU OF FIRE SERVICES CREATED IN SECTION**  
 23 **1B OF THE FIRE PREVENTION CODE, 1941 PA 207, MCL 29.1B**, acting  
 24 jointly with the superintendent of public instruction, may require  
 25 that the damaged portion ~~and/or~~ **OR** the remaining portion of the  
 26 building, **OR BOTH**, be remodeled or reconstructed in accordance with  
 27 ~~the provisions of~~ this act.



Senate Bill No. 1138 as amended May 9, 2006

(5) This act ~~shall also apply~~ **APPLIES** to the remodeling of existing school buildings and other buildings to be used for school purposes.

(6) ~~No~~ **AN** existing building or part of **AN EXISTING** building, regardless of the number of ~~its~~ stories or ~~its~~ **THE** cost to the school district ~~which~~ **OF THE BUILDING, THAT** has not ~~had prior use~~ **BEEN USED** as a school building shall ~~be so used until such use shall have been~~ **NOT BE USED AS A SCHOOL BUILDING UNLESS IT IS** approved by the superintendent of public instruction and the ~~state fire marshal~~ **BUREAU OF FIRE SERVICES**.

(7) ~~For all~~ **IF THE** construction, reconstruction, or remodeling of **A** school ~~buildings where the total cost is~~ **BUILDING COSTS** less than \$15,000.00, it ~~shall~~ **IS** not ~~be~~ necessary ~~that~~ **TO EMPLOY** a registered architect or engineer, ~~be employed~~ but the plans for ~~such buildings~~ **THE BUILDING** shall be submitted to the ~~state fire marshal~~ **BUREAU OF FIRE SERVICES** and to the superintendent of public instruction or ~~his~~ **THE SUPERINTENDENT'S** authorized agent for criticism, suggestions, and approval.

<<Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 1133.
- (b) House Bill No. 5860.>>