

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.

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

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

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

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No. 1133

21 of the 93rd Legislature is enacted into law.