

SENATE BILL No. 592

May 20, 2009, Introduced by Senators KUIPERS, WHITMER, VAN WOERKOM and GLEASON and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1274a (MCL 380.1274a), as amended by 2003 PA
255.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1274a. (1) The board of a school district ~~—OR~~
2 intermediate school district ~~, or local act school district may~~
3 ~~contract—~~ **DO 1 OR MORE OF THE FOLLOWING:**

4 **(A) CONTRACT** with a qualified provider for energy conservation
5 improvements to school facilities. These improvements may be paid
6 from operating funds of the school district **OR INTERMEDIATE SCHOOL**
7 **DISTRICT** or from the proceeds of bonds or notes issued for energy
8 conservation improvements, or the board or intermediate school
9 board may enter into 1 or more energy saving performance contracts.

1 These contracts may contain a written financial guarantee providing
2 that the costs of improvements will be paid only if the energy
3 savings are sufficient to cover them. Energy conservation
4 improvements may include, but are not limited to, building envelope
5 improvements; heating and cooling upgrades; lighting retrofits;
6 installing or upgrading an energy management system; motor, pump,
7 or fan replacements; domestic water use reductions; and upgrading
8 other energy consuming equipment or appliances.

9 (B) ACQUIRE FUEL, ELECTRICAL ENERGY, OR NATURAL GAS DIRECTLY
10 OR THROUGH A PURCHASING COOPERATIVE AGREEMENT FOR A PERIOD NOT TO
11 EXCEED 5 YEARS. THESE COMMODITIES MAY BE PAID FROM OPERATING FUNDS
12 OF THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT OR FROM THE
13 PROCEEDS OF BONDS OR NOTES ISSUED FOR THE PURPOSE OF ACQUIRING THE
14 COMMODITIES. THE PURCHASING COOPERATIVE AGREEMENT MAY INCORPORATE 1
15 OR MORE GUARANTEES OF PERFORMANCE BY THE COMMODITY SUPPLIER,
16 LETTERS OF CREDIT, SWAPS, HEDGES, COMMODITY PRICE EXCHANGE
17 AGREEMENTS, TERMINATION PAYMENTS, OR OTHER FEATURES THAT WILL
18 ACHIEVE COST LIMITS OR DISCOUNTS, OR BOTH, FOR THE PERIOD OF THE
19 AGREEMENT.

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

24 (3) If a school board or intermediate school board enters into
25 an energy saving performance contract under ~~this section~~ SUBSECTION
26 (1) (A), all of the following apply:

27 (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 ~~,—OR~~ 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 INTERMEDIATE 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~~ **AN ENERGY** conservation improvements ~~—IMPROVEMENT~~ or

1 substance removal or treatment authorized by this section is
2 subject to the competitive bidding requirements of section 1267.

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

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

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

13 (c) Project costs and expenditures.

14 (d) Estimated annual energy savings.

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

22 (9) As used in this section:

23 (a) "Energy saving performance contract" means an agreement
24 for the evaluation, recommendation, and implementation of energy
25 conservation measures including, but not limited to, an energy
26 audit or detailed energy study; the design, installation,
27 operation, and maintenance of 1 or more energy conservation

1 measures; energy management services; and an energy savings
2 guarantee.

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