

HOUSE BILL NO. 4495

April 23, 2019, Introduced by Reps. Warren, Lasinski and Sabo 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 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,"



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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:

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

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

(b) All walls, floors, partitions, and roofs ~~shall~~**must** be constructed of fire-resisting materials such as stone, brick, tile, 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 engineer ~~shall~~**described in this section**
26 **must** provide adequate exits from all parts of a school building. In
27 all cases, there ~~shall~~**must** be at least 2 stairways and the
28 distance from the door of any ~~class~~**classroom** or assembly room to a
29 stairway or exit ~~shall~~**must** not exceed 100 feet.



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

(h) Compliance with section 1b.

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

(3) A design builder that employs an architect or a professional engineer licensed in this state may construct a school building if that architect or professional engineer directly supervises all of the following:

(a) The construction of the school building.

(b) The review of the materials used in construction of the school building.

(c) The review of the completed phases of the construction of the school building.

(4) ~~(3)~~As used in this section, "department" means the department of ~~labor and economic growth~~talent and economic development**.**

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

(a) ~~"School buildings" shall include all buildings used for school purposes.~~"Addition" means added space that results in additional cubic contents to an existing school building.

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

(i) A school district contracts with a single individual or



1 entity for both design services and construction services.

2 (ii) Design and construction of the project is either of the
3 following:

4 (A) Sequential, with the entire design complete before
5 construction commences.

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

9 (iii) Selection is either a single-phase selection using
10 qualifications-based selection or a 2-phase selection using
11 qualifications-based selection in the first phase and best-value
12 selection in the second phase.

13 (c) "Design-builder" means an entity that provides design-
14 build construction services and employs 1 or more persons certified
15 in design-build by the Design-Build Institute of America or any
16 other national design-build accreditation program.

17 (d) ~~(b)~~ "Remodeling" ~~shall mean~~ **means** the alteration,
18 construction, or remodeling of partitions, hallways, stairways, and
19 means of egress, **and** the replacement, relocation, or reconstruction
20 of heating, ventilating, and sanitary equipment.

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

23 (e) "School building" means a building used for school
24 purposes.

25 (f) ~~(d)~~ "Total cost" ~~shall be interpreted to mean~~ **means** the
26 monetary worth of the building when ready for occupancy, regardless
27 of the source of funds, labor, or material and ~~shall include~~
28 **includes** the cost of general construction, plumbing, heating and
29 ventilation, electrical work, all fixed equipment, ~~together with~~



1 and the cost of architects, engineers, and building superintending
2 services.

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

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

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

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

18 (a) A state civil infraction punishable by a civil fine of not
19 more than \$10,000.00.

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

23 (4) **A design-builder performing construction services under**
24 **this act is permitted to self-perform part of the construction work**
25 **if and to the extent agreed to in writing by the school district**
26 **and the design-builder.**

27 (5) **A design-builder selected to perform construction services**
28 **under this act may select subcontractors based on qualifications**
29 **alone or on a combination of qualifications and price and shall not**



1 select subcontractors based on price alone. A qualifications and
2 price selection may be a single-step selection based on a
3 combination of qualifications and price or a 2-step selection. In a
4 2-step selection, the first step must be based on qualifications
5 alone and the second step may be based on a combination of
6 qualifications and price or on price alone.