

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 805 (Substitute S-2 as passed by the Senate)  
Sponsor: Senator Mike Rogers  
Committee: Human Resources, Labor, Senior Citizens and Veterans Affairs

Date Completed: 9-11-00

### **RATIONALE**

Public Act 306 of 1937 regulates the construction, reconstruction, and remodeling of public and private school buildings. The Act requires the State Superintendent of Public Instruction to give written approval of any plans and specifications before a project is begun. The Act also requires the State Fire Marshal to inspect any building at least twice during construction to determine whether the construction complies with the Act. In addition, the Act specifies that the architect or engineer who prepares the plans and specifications or supervises the construction of a school building is responsible for constructing the building of adequate strength to resist fire and in accordance with the approved plans and specifications.

While school buildings are subject to Public Act 306, they are not subject to the State Construction Code Act. Consequently, State and local inspectors, who oversee other construction projects, do not have jurisdiction over the construction and remodeling of school buildings. Although the State Superintendent has a formal agreement with the Department of Consumer and Industry Services (DCIS) for it to serve as the Superintendent's agent for approving the fire safety and electrical components of a school building's construction, the Department of Education neither maintains staff with expertise in building construction nor has any other arrangement with the DCIS to review school construction projects. Thus, the structural, mechanical, and plumbing components of school buildings that are being built or remodeled are inspected only if school officials and local building authorities voluntarily collaborate.

The absence of consistent inspections apparently has resulted in the "failure" of various school buildings around the State. For example, a middle school in the Woodhaven School District built in 1976 reportedly had to be almost entirely reconstructed at a cost of about \$6 million, when the building was less than 20 years old. A five-year-old elementary school in Petoskey had a roof that reportedly started "coming apart", and a Gaylord

High School built in 1994 evidently had problems with ventilation, heaving cement, cracks in the brick facade, and a leaking roof. Because of these and other instances in which school buildings were discovered to have structural flaws, some people believe that Public Act 306 should require the DCIS to approve and oversee school construction plans and projects, ensuring that they complied with the State Construction Code Act.

### **CONTENT**

**The bill would amend Public Act 306 of 1937 to provide that the Department of Consumer and Industry Services would be responsible for the administration and enforcement of the Act and the State Construction Code Act in each school building in Michigan. The bill would delete the current requirement that the Superintendent of Public Instruction approve plans and specifications for school building construction. The bill would take effect on July 1, 2001.**

A school building could not be constructed, remodeled, or reconstructed in Michigan after July 1, 2001, until the DCIS gave written approval of the plans and specifications, indicating that the school building would be designed and constructed in conformance with the State Construction Code. This requirement would not apply to any school building for which construction had begun before July 1, 2001.

The DCIS also would have to develop a plan for conducting safety inspections of school buildings constructed, remodeled, or reconstructed in Michigan since January 1, 1978, and implement that plan within five years of the bill's effective date.

Except as otherwise provided in the bill, the DCIS would have to perform for school buildings all plan reviews within 60 days from the date plans were filed or considered approved. Inspections would have to be performed within five business days as required

by the State Construction Code. The DCIS would be the enforcing agency for Public Act 306.

The DCIS would have to delegate responsibility for the administration and enforcement of the Act to an applicable agency, if both the school board and the governing body of the local unit of government had annually certified to the DCIS, as prescribed by the Department, that full-time Code officials, inspectors, and plan reviewers registered under the Building Officials and Inspectors Registration Act would conduct plan reviews and inspections of school buildings.

The bill states that it would not affect the responsibilities of the DCIS under the Fire Prevention Code. The Bureau of Construction Codes and the Office of Fire Safety, within the DCIS, jointly would have to develop procedures to use the plans and specifications submitted in carrying out the requirements of Public Act 306 and the Fire Prevention Code. The appropriate code enforcement agency could not issue a certificate of occupancy until one was issued under the Fire Prevention Code.

Public Act 306 specifies that a public or private school building, or any additions to it, may not be erected, remodeled, or reconstructed except in conformity with certain conditions. The first condition is that all plans and specifications for buildings must be prepared by, and the construction supervised by, a Michigan-registered architect or engineer. The bill would delete from that condition a requirement that, before construction, reconstruction or remodeling, written approval of the plans and specifications be obtained from the Superintendent of Public Instruction or the Superintendent's authorized agent. Under the provision to be deleted, the Superintendent may not issue his or her approval until securing, in writing, the approval of the State Fire Marshal or the appropriate municipal official, when certification is made relative to factors concerning fire safety, and the approval of the health department having jurisdiction relative to factors affecting water supply, sanitation, and food handling.

The Act requires the Superintendent of Public Instruction to publish an informative bulletin that sets forth good school building planning procedures and interprets the Act clearly. The bulletin must be prepared in cooperation with the State Fire Marshal and the State Health Commissioner and must be consistent with recognized good practice as evidenced by standards adopted by nationally recognized authorities in the fields of fire protection and health. The bill would delete these requirements.

Another condition that must be met under the Act is that every room enclosing a heating unit be enclosed

by walls of fire-resisting materials and equipped with automatically closing fire doors. Heating units may not be located directly beneath any portion of a school building or addition constructed or reconstructed after the Act's effective date. Under the bill, this prohibition would apply to a building or addition constructed or reconstructed after July 1, 2001.

In addition, that Act provides that these heating-unit regulations may not be construed to require the removal of an existing heating plant from beneath an existing building when an addition to the building is constructed, unless the State Superintendent of Public Instruction or the Superintendent's authorized agent, acting jointly with the State Fire Marshal, requires the relocation. Under the bill, only the DCIS could require relocation.

MCL 388.851 et al.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The lack of mandatory inspection of school buildings under construction poses serious safety issues. Currently, no State or local building authority is required to certify that the State Construction Code is being met when the foundation, walls, roof, or other components of a school building are being erected. The existence of unsafe and unsound schools demonstrates that the standards for school construction currently provided under Public Act 306 are not sufficient. Unlike the standards in the State Construction Code, which are based on nationally recognized codes and are updated regularly, the standards in Public Act 306 are minimal and provide little protection to the public and children in Michigan schools.

The bill would give the DCIS Director explicit responsibility for the administration and enforcement of Public Act 306 and the State Construction Code Act in Michigan school buildings and would remove provisions authorizing the State Superintendent to approve plans and specifications for school building construction. As a result, the DCIS would have to approve plans and oversee school construction projects or delegate the responsibility to competent local officials. The bill would prevent future construction of structurally flawed schools and would save school districts the expense of repairing or even reconstructing unsound buildings. More importantly, the bill would provide a safe environment for students, as well as protect school personnel and the public.

**Response:** Previous legislation (House Bill 5654 of 1997-98) proposed to repeal Public Act 306 and regulate school construction under the State Construction Code Act. That approach would seem to be more efficient.

### **Opposing Argument**

The bill could result in additional costs for school districts, which already must pay fees to architects for the planning and oversight of school construction. Submission of plans and specifications for school buildings to the DCIS could result in school districts' being charged fees for permits, plan reviews, and inspections. The amount of fees that could be assessed on a modest high school building, for example, could total at least \$20,000, according to the DCIS. Some school officials also are concerned about potential delays in completing school construction projects if State inspections were required. Currently, only the State Fire Marshal is

required to inspect a school construction project to determine whether the construction complies with Public Act 306. As a result of the bill, school districts would have to deal with other agencies, such as the DCIS Bureau of Construction Codes. Furthermore, some school districts cross several different municipal boundaries where some local governments have adopted the State Construction Code while others follow another nationally recognized code. If a school construction project were located in two local governmental units, such as a city and a township, and each followed a different construction code, then a school district could be required to comply with varying standards of inspection requirements.

**Response:** Public Act 245 of 1999 requires the State Construction Code to be enforced throughout the State.

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

### **Department of Consumer and Industry Services.**

The Department's Bureau of Construction Codes could receive increased revenue as this bill would require inspections of all electrical, mechanical, plumbing, and structural systems, plan reviews, including those done by the Office of Fire Safety (OFS), and permitting for any construction on school buildings Statewide. Currently, the DCIS conducts approximately 60% of the school building electrical inspections (none in any of the metropolitan areas), 30% of the plumbing inspections, 40% of the mechanical inspections, and no structural inspections. Additionally, this bill would require the DCIS to develop a plan to conduct inspections of school buildings that experienced any construction activity after 1977. These costs would be offset by the additional restricted revenue that would be generated from the fees charged to school districts for the provision of this service; therefore, no General Fund dollars would be needed to fund this program. A \$200 fee would be charged to conduct all of these inspections. The bill also would allow the Department to contract with local inspectors to conduct these inspections.

**Department of Community Health.** The elimination of the Department of Community Health's supply, sanitation, and food handling responsibilities would not affect fee collections as school buildings are exempted from such fees. The decreased number of such inspections could lead indirectly to savings for the Department.

**Local Government.** Local school districts would experience an indeterminate fiscal impact from this legislation. Currently, school districts pay fees to the OFS for inspection services. Since the bill would

eliminate this requirement, districts would experience savings. However, the bill then would require inspections by the Bureau of Construction Codes as outlined above. The fees charged by the Bureau probably would offset the savings from the elimination of fire safety plan reviews. If the fees charged by the Bureau exceeded the savings, local districts would incur additional costs associated with this legislation.

Fiscal Analyst: M. Tyszkiewicz  
S. Angelotti  
K. Summers-Coty

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.