

SCHOOL SITE PLAN REVIEW

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House Bill 5660 (Substitute H-2)
Sponsor: Rep. Philip LaJoy
Committee: Land Use and Environment
First Analysis (5-18-04)

BRIEF SUMMARY: The bill would amend the Revised School Code to specify that a school board could not build or expand a school without first submitting a site plan to the local zoning authority for review. The bill specifies that these site plan review provisions would apply for a three-year period, beginning on the effective date of the legislation. The bill would add an opportunity for review and comment by the local zoning authority, but final authority would remain with the state superintendent. A more detailed explanation of the bills is provided below.

FISCAL IMPACT: The bill would have no fiscal impact on the state. There could be an indeterminate administrative cost to local school districts for copying and distributing additional copies of the site plans to local zoning boards, revising site plans to incorporate suggested changes, and resubmitting revised plans.

THE APPARENT PROBLEM:

A recent report by the Michigan Land Use Institute issued together with the Michigan Chamber of Commerce, notes that “business and government leaders have begun to recognize that spread-out growth patterns are increasing taxes and fees that pay for expanding infrastructure, hurting the cities left behind, and diminishing the quality of life as open space and farmland are paved over.” The report, entitled *Hard Lessons: Causes and Consequences of Michigan’s School Construction Boom*, indicates that Michigan is building ever-bigger schools ever farther out-of-town at a faster rate than most other states. A 2002 construction report by *School Planning and Management*, a national trade magazine, found that annual expenditures in the United States for school construction doubled since 1992. In Michigan they tripled.

The report *Hard Lessons* asks whether building bigger, newer schools is always best for students and communities. It notes that new school construction is likely to destabilize communities with long-term tax, economic, and community consequences. The study concludes that since 1996, school districts built at least 500 new schools in Michigan and closed 278 older ones while the school age population grew by just 4.5 percent. Even though southeast Michigan will lose 1.5 percent of its school age population within 30 years, according to the Southeast Michigan Council of Governments, that region of the state recently spent \$6.2 billion on expanding or building new schools in the last eight years.

Frequently new schools are placed in farmland areas that could be preserved, and the undeveloped site generates many new expenses for infrastructure and government services which eventually raise taxes for business and property owners. School districts use the spacious new schools to attract families with students. Since the passage of Proposal A, tying each student to at least \$6,700 in school operating funds has made building spectacular new schools profitable endeavors for districts that can afford them. The report warns that these extravagant projects create severe challenges for both small rural and large urban districts with older buildings and small or badly eroded property tax bases.

In every case the investigators studied, building a new school cost more than renovating an older one. Further, the group's preliminary research demonstrates that keeping an existing school open increases home values in surrounding neighborhoods, and helps stabilize the area and its business activity. In contrast, closing a neighborhood school slows the rise of home values. At the same time, building shiny new facilities can accelerate housing and development, but price young families out of the market, leading, in turn, to declining enrollment. For example, Okemos Public Schools in Ingham County completed a \$47 million high school ten years ago, and property values in the area accelerated, while homes increased in value. In that community homes now cost \$300,000—unaffordable for young families. Today, local planners fear the school may be overbuilt, because the 2003 graduating class had 401 seniors, while the number of children in kindergarten was just 224.

Under state law, school officials do not have to abide by local land use plans. Neither must they participate in land use planning efforts in their communities. Consequently, when school officials undertake school building programs, they often make their decisions unilaterally, without taking into consideration their local governments' plans for managed growth and development.

Because the construction decisions of school officials have a significant impact throughout the region, legislation proposed earlier in the legislative session—House Bill 5446 (Rep. Ward)—would require a school official to serve on a county's planning commission. In addition, legislation has been introduced to require the members of a school board to seek review of their building plans by the local zoning authority.

THE CONTENT OF THE BILL:

The bill would amend the Revised School Code to specify that the governing board of a public school could not build or expand a school building under certain circumstances, without first submitting a site plan to the local zoning authority for review. The bill would add an opportunity for review and comment by the local zoning authority, but final authority would remain with the state superintendent. Under the bill, "school building" would mean any structure or facility used for instructional or non-instructional school purposes and includes an athletic field or facility.

The bill specifies that the site plan review provisions would apply for a three-year period, beginning on the effective date of the legislation. Further, the provisions would apply only to a public school that was eligible for qualification of bonds under the School Bond Loan Fund program, and only if the expansion or renovation would result in the square footage of the school building being increased by at least 20 percent. Finally, the provisions would *not* apply to temporary structures or facilities that were necessary due to unexpected enrollment increases, and that were used for not more than two years.

Currently under the law, the state superintendent of public instruction has sole and exclusive jurisdiction over the review and approval of plans and specifications for the construction, reconstruction, or remodeling of school buildings used for instructional and non-instructional purposes, as well as for site plans for those school buildings.

House Bill 5660 would prohibit the governing board of a public school from building or expanding a school without first submitting a site plan to the local zoning authority for review. Not later than 60 days after receiving the site plan, the local zoning authority would be required to respond to the governing board with either a written notice that the local zoning authority concurred with the site plan, or with written suggested changes to the site plan. (If the zoning authority did not respond to the governing board with either of these options, then it would be assumed the governing board had received a written notice of concurrence.) If there were suggested written changes by the zoning authority, then not later than 45 days after receiving the changes, the governing board would be required to respond to the zoning authority, with either a revised site plan that incorporated the changes, or with an explanation of why the changes were not being made.

If a governing board of a public school received (or was assumed to have received) a written notice of concurrence from the zoning agency, then the board would be required to submit the site plan and the written notice to the state superintendent of public instruction, and could then proceed with the building or expansion. However, if the governing board did not receive a written notice of concurrence, then all of the following would apply:

- a) The governing board would be required to submit the site plan to the state superintendent and provide a copy to the local zoning authority, together with written notice that the site plan had been submitted to the state superintendent. The superintendent would be required to approve or disapprove the site plan and notify the governing board of the decision within 30 days after the board submitted the site plan;
- b) the governing board could not proceed with the building or expansion unless the site plan had been approved by the state superintendent;
- c) not later than 10 days after receiving the notice, the local zoning authority could submit comments to the state superintendent and the governing board concerning its objections; and,
- d) the state superintendent would have the sole and exclusive jurisdiction over the review and approval of the site plan.

The bill specifies that a local zoning authority could not charge a governing board a fee for the site plan review process described in the bill that was greater than the actual and necessary costs incurred by the authority for its project-specific site review activities.

MCL 380.1263

BACKGROUND INFORMATION:

For more information about the Land Use Institute and school siting decisions, visit the institute's website at <http://www.mlui.org>. The 20-page report, *Hard Lessons: Causes and Consequences of Michigan's School Construction Boom* cited earlier can be found on the institute's web site, as well as an executive summary.

ARGUMENTS:

For:

The broader the public's involvement in school construction decisions, the greater the likelihood that school officials will develop long-term solutions that enhance educational quality *and* manage community growth. This bill would require school officials to submit their school building site plans to local zoning authorities, so that members of those authorities—generally more knowledgeable about local land use plans than school board members—can consider the systemic effects of the proposed school construction decisions within the region. Taken together with House Bill 5446 which would require a school official to sit on a county planning commission, this legislation will allow school officials to become more knowledgeable about land planning, and investigate lower cost renovation and historic preservation projects when they refurbish schools. In that way, school officials will be better able to resist the trend toward greenfield development and sprawl. As the report *Hard Lessons* concludes, “the more extensively a school district engaged its citizens, and the more intensively it studied existing facilities, the more frequently the district decided to either renovate existing buildings or construct new facilities near town centers.”

Against:

Some people believe that land-use planning is not a legitimate government function to begin with, and school officials should not be required to participate in it. Central land-use planning that seeks to manage growth and development is less cost-effective and less fair than simply allowing the market to determine the highest and best uses of land. For example, what some people call sprawl can more accurately be described as individual American citizens making the decisions that are best for them and their families. It is often said that the government that governs best, governs least. Nowhere is that more true than when land planning is the issue.

POSITIONS:

The Michigan Department of Education supports the bill. (3-24-04)

The Small and Rural School Districts support the bill. (3-24-04)

The Michigan Townships Association supports the bill. (3-24-04)

The Michigan Municipal League supports the bill. (5-12-04)

The Michigan Association of School Boards supports the bill. (3-24-04)

The Michigan Society of Planning supports the bill. (3-24-04)

The Michigan Land Use Institute supports the bill. (5-12-04)

The Michigan Chamber of Commerce supports the substitute. (5-12-04)

The National Heritage Academies oppose the bill. (3-24-04)

Oakland Schools opposes the bill. (5-12-04)

The Tri-County Alliance (schools in Wayne, Oakland and Macomb counties) opposes the bill. (5-12-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.