

## DESIGN-BUILD CONSTRUCTION OF SCHOOL BUILDINGS

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### House Bill 4603 (proposed substitute H-2)

**Sponsor: Rep. Tullio Liberati, Jr.**

**Committee: Regulatory Reform**

**Complete to 2-20-24**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4603 would amend 1937 PA 306, which governs the construction of school buildings. Currently, a school building or its additions cannot be erected, remodeled, or reconstructed without having the plans prepared by an architect or professional engineer licensed in Michigan (unless otherwise specified in the rules on used modular classrooms promulgated by the director of the Department of Licensing and Regulatory Affairs (LARA)). The act also prescribes requirements and prohibitions related to the construction of a school building, for example requiring the use of fire-resistant material for walls and floors.

The bill would remove the provisions described above and instead provide that a school building or its additions cannot be erected, remodeled, or reconstructed unless the plans and specifications are prepared by either of the following:<sup>1</sup>

- An architect, or a professional engineer who is licensed in Michigan.
- An architect, or a professional engineer who is licensed in Michigan, working in conjunction with a *design-builder* if the design-builder either meets the licensing requirements to practice architecture in Michigan or forms a *design-build team*.

*Design-builder* would mean an individual, a partnership, a joint venture, a corporation, or other legal entity that meets both of the following conditions:

- Furnishes design and general contracting services for a project.
- Completes design services in accordance with Article 20 of the Occupational Code,<sup>2</sup> or through a subcontract with a design firm that complies with that article.

*Design-build team* would mean a team consisting of a *design-build contractor*<sup>3</sup> and an architect or professional engineer licensed in Michigan.

*Design-build construction services* would mean a project delivery method that meets all of the following requirements:

- A school district engages the services of a criteria developer,<sup>4</sup> an architect, or a professional engineer who is licensed in Michigan<sup>5</sup> to do both of the following:
  - Assist the school district in the selection and compensation of a design-build team or design-builder.

<sup>1</sup> As written, it seems unclear whether these require that the architect also be licensed in Michigan.

<sup>2</sup> <http://legislature.mi.gov/doc.aspx?mcl-299-1980-20>

<sup>3</sup> The bill does not define this term.

<sup>4</sup> The term *criteria developer* is not defined in the bill, and there does not appear to be any state licensure of criteria developers. Note that the bill defines *design-criteria developer* as described below, but does not use the term.

<sup>5</sup> As written, it seems unclear whether all three professionals would have to be licensed in Michigan, or only professional engineers.

- Provide for the scope of the services of a design-build team or design-builder.
- A school district contracts with a single individual or entity for both design and construction services.
- Design and construction of the project is either sequential (with the entire design complete before construction commences) or concurrent (with the design produced in two or more phases and construction of some phases commencing before the entire design is complete).
- Selection is a single-phase selection using price and qualification to determine best value.

**Construction** would mean the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

**Design-criteria developer**<sup>6</sup> would mean an individual or firm that meets both of the following requirements:

- Is a licensed architect or a licensed professional engineer in Michigan.
- Is responsible for preparing a **design-criteria package** and provides construction inspection services.

**Design-criteria package** would mean a set of documents that provides sufficient information to permit a design-builder to prepare a proposal in response to a school district's request for proposals.

A school building or construction that was constructed or remodeled under the bill's proposed provisions would still need to comply with the Stille-DeRosett-Hale Single State Construction Code Act and its associated rules.

MCL 388.851, 388.851a, and 388.852

## **BACKGROUND:**

The bill is similar to HB 5538 of the 2021-22 legislative session, as passed by the House.<sup>7</sup>

## **FISCAL IMPACT:**

House Bill 4603 would have an indeterminate fiscal impact on school construction costs. The cost differential associated with changes under the bill would need to be examined on a case-by-case basis, and is therefore indeterminate. However, the bill may result in reduced project costs.

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

<sup>6</sup> This term is not used in the bill.

<sup>7</sup> <http://legislature.mi.gov/doc.aspx?2021-HB-5538>