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SFA**BILL ANALYSIS**

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House Bill 5654 (Substitute S-4 as reported)
Sponsor: Representative George Mans
House Committee: Labor and Occupational Safety
Senate Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 1-26-99

RATIONALE

Under Public Act 306 of 1937, which regulates the construction, reconstruction, and remodeling of public and private school buildings, the State Superintendent of Public Instruction is required 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. Thus, the structural, mechanical, electrical, and plumbing components of school buildings that are being constructed 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 the construction of school buildings should be subject to the same codes,

permit process, plan reviews, and inspections that apply to other buildings.

CONTENT

The bill would amend the State Construction Code Act to require that all plans and specifications for school buildings be submitted to the Department of Consumer and Industry Services (DCIS); require the plans to be approved under the Fire Prevention Code; provide that the DCIS Director would be responsible for the administration and enforcement of the Act and the Construction Code in each school building; require an architect or engineer to prepare school building construction plans and supervise the construction; provide that a governmental subdivision could not exempt itself from the requirements of the bill; and repeal Public Act 306 of 1937. A school district that complied with the bill's provisions would be exempt from Public Act 166 of 1965, which requires prevailing wages and fringe benefits on State projects.

("School building" would mean a structure used for the instruction and noninstruction of six or more pupils. "School building" also would mean a structure owned, leased, or under the control of a public or private K to 12 school system or a community college or junior college established under the State Constitution or the Revised School Code. "School building" would not include a dwelling unit or a structure owned, leased, or under the control of a college or university.)

Plan Review

All plans and specifications for school buildings would have to be submitted to the DCIS. The Department would be required, in a timely manner, to perform for school buildings site plan review, all

plan reviews and inspections required by the State Construction Code, and would be the enforcing agency for the Act. A school building could not be constructed, remodeled, or reconstructed in the State after the bill's effective date until written approval of the plans and specifications, indicating that the school building would be designed and constructed in conformance with the Code, was obtained from the Department. These provisions would not apply to any school building for which construction had commenced before the bill's effective date.

Fire Prevention Code

The bill's provisions would not affect the responsibilities of the Department under the Fire Prevention Code. The Bureau of Construction Codes and the Office of Fire Safety in the DCIS would have to develop jointly procedures to use the submitted plans and specifications in carrying out the requirements of the Act and the Fire Prevention Code. The Department could not issue a certificate of occupancy until a certificate of approval had been issued under the Fire Prevention Code.

Architect or Engineer

The bill would require that all plans and specifications for a school building be prepared and the construction supervised by an architect or professional engineer licensed to practice architecture or professional engineering in the State. The architect or professional engineer would be responsible for designing the building of adequate strength so as to resist fire and for providing plans and specifications that conformed to applicable building and safety code requirements.

Superseding Other Laws

The Act specifies that it may not be construed to repeal, amend, supersede, or otherwise affect the powers and duties exercised under a variety of laws listed in the Act, such as the Michigan Occupational Safety and Health Act and the Boiler Act. The bill would add to this list the Mechanical Contractors Act.

Repealer

The bill would repeal Public Act 306 of 1937. The bill also would repeal Section 1263 of the Revised School Code, which prohibits a school board from designing or building a school building to be used

for instructional or noninstructional school purposes or from designing and implementing the design for a school site unless the design and construction comply with Public Act 306 of 1937.

MCL 125.1502 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 be on site at a school construction project to certify that State Construction Code is being met when the foundation, walls, roof, or other components of a school building are being erected. The occurrences of unsafe and unsound schools demonstrate that the standards for school construction 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. While the State Superintendent has a formal agreement with the DCIS 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. The bill would make school buildings subject to the State Construction Code's requirements concerning permits, plan reviews, and inspections. 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. Perhaps more importantly, the bill would provide a safe environment for students, as well as protect school personnel and the public.

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 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 would have to comply with varying standards of inspection requirements.

Response: To help school districts absorb the additional fees resulting from additional plan reviews and construction inspections, the bill would exempt school districts from Public Act 166 of 1965, which requires prevailing wages and fringe benefits on State projects.

Opposing Argument

School districts that complied with the bill would be exempt from paying prevailing wages and fringe benefits on construction projects. Under prevailing wage requirements, government construction projects, including schools, must meet certain pay standards set by union construction pay grades. The prevailing wage issue should be dealt with separately and should not be included in legislation that addresses the issue of school construction standards.

Legislative Analyst: L. Arasim

FISCAL IMPACT

State. This bill would expand the responsibilities of the DCIS, Bureau of Construction Codes, to include all electrical, mechanical, plumbing and structural inspections, plan reviews, and permitting for any construction on school buildings statewide. Currently, the DCIS conducts approximately 60% of the school building electrical inspections statewide (none in any of the metropolitan areas), 30% of the plumbing inspections, 40% of the mechanical inspections, and none of the structural inspections on school buildings. Since school construction and

renovation are primarily limited to the summer months, the DCIS could meet the additional responsibilities with limited term staff. It estimates that a \$600,000 increase in the spending authority in the Construction Code Flexibility line item would be necessary to fund the additional staff needed to conduct these added inspections. The associated costs would be offset by the additional restricted revenue that would be generated from the fees charged for conducting these inspections, so no General Fund dollars would be needed to fund this program.

Local. There would be a fiscal impact on local school districts planning new construction projects, as they would incur the additional cost of a structural plan review, inspection, and permit process. The average costs of inspections and permits for a one-story high school building are estimated at nearly \$26,000. Either these costs would be paid out of a district's general operations revenues or the district could pay for these costs from the revenue of bond sales. In either case, it would be the district's responsibility to pay for these costs. In addition, school districts could realize a cost saving if the wages they paid for a project were less than the prevailing wages. The actual cost saving would depend on the amount of the actual wages compared with the prevailing wages.

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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.