

SUBSTITUTE FOR
HOUSE BILL NO. 5862

A bill to amend 1972 PA 230, entitled
"Stille-DeRossett-Hale single state construction code act,"
by amending sections 3a and 8b (MCL 125.1503a and 125.1508b), as
added by 1999 PA 245.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3a. (1) The state construction code commission is created
2 and consists of **THE STATE FIRE MARSHAL OR AN EMPLOYEE OF THE BUREAU**
3 **OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE PREVENTION CODE,**
4 **1941 PA 207, MCL 29.1B, DESIGNATED BY THE STATE FIRE MARSHAL AND** a
5 designee of the ~~office of fire safety and the~~ chairpersons of the
6 barrier free design board, the electrical administrative board, the
7 state plumbing board, and the board of mechanical rules, who shall
8 be permanent members, and 12 residents of the state to be appointed

1 by the governor with the advice and consent of the senate.
2 Appointed members of the commission shall include 1 person from
3 each of the fields of industrial management, architecture,
4 professional engineering, building contracting, organized labor,
5 premanufactured building, and 3 members representing municipal
6 building inspection; 2 persons from the general public; and a
7 licensed residential builder. A member of the commission **APPOINTED**
8 **BY THE GOVERNOR BEFORE JANUARY 1, 2007** shall be appointed for a
9 term of 2 years, except that a vacancy shall be filled for the
10 unexpired portion of the term. **A MEMBER OF THE COMMISSION APPOINTED**
11 **BY THE GOVERNOR AFTER DECEMBER 31, 2006 SHALL BE APPOINTED FOR A**
12 **TERM OF 4 YEARS, EXCEPT THAT A VACANCY SHALL BE FILLED FOR THE**
13 **UNEXPIRED PORTION OF THE TERM.** A member of the commission may be
14 removed from office by the governor for inefficiency, neglect of
15 duty, or misconduct or malfeasance in office. A member of the
16 commission who has a pecuniary interest in a matter before the
17 commission shall disclose the interest before the commission takes
18 action in the matter, which disclosures shall be made a matter of
19 record in its official proceedings. Each member of the commission,
20 except the state fire marshal or the state fire marshal's designee,
21 shall receive ~~compensation and~~ **REIMBURSEMENT FOR** actual expenses
22 incurred by the member in the performance of the duties as a member
23 of the commission, **SUBJECT TO AVAILABLE APPROPRIATIONS.** ~~The per~~
24 ~~diem compensation of the members and the schedule for reimbursement~~
25 ~~of expenses shall be established annually by the legislature.~~

26 (2) Nine members of the commission constitute a quorum. Except
27 as otherwise provided in the commission's bylaws, action may be

1 taken by the commission by vote of a majority of the members
2 present at a meeting. Meetings of the commission may be called by
3 the chairperson or by 3 members on 10 days' written notice. Not
4 less than 1 meeting shall be held each calendar quarter. A meeting
5 of the commission may be held anywhere in this state.

6 (3) The commission ~~shall~~ **MAY** elect 1 member as ~~chairperson,~~
7 ~~another as~~ vice-chairperson, and other officers as it determines
8 appropriate, for the terms and with the duties and powers as the
9 commission determines. The ~~chairperson and~~ vice-chairperson **AND**
10 **OTHER OFFICERS** of the commission shall be elected from those
11 members appointed to the commission by the governor. **AFTER DECEMBER**
12 **31, 2006, THE GOVERNOR SHALL DESIGNATE A MEMBER OF THE COMMISSION**
13 **TO SERVE AS CHAIRPERSON AT THE PLEASURE OF THE GOVERNOR.**

14 (4) The commission is within the department but shall exercise
15 its statutory functions independently of the director, except that
16 budgeting, personnel, and procurement functions of the commission
17 shall be performed under the direction and supervision of the
18 director. The director has the sole statutory authority to
19 promulgate rules.

20 (5) The business that the commission may perform shall be
21 conducted at a public meeting of the commission held in compliance
22 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
23 Public notice of the time, date, and place of the meeting shall be
24 given in the manner required by the open meetings act, 1976 PA 267,
25 MCL 15.261 to 15.275.

26 (6) A writing prepared, owned, used, in the possession of, or
27 retained by the commission in the performance of an official

1 function shall be made available to the public in compliance with
2 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

3 Sec. 8b. (1) Except as otherwise provided in this section, the
4 director is responsible for administration and enforcement of this
5 act and the code. A governmental subdivision may by ordinance
6 assume responsibility for administration and enforcement of this
7 act within its political boundary. A county ordinance adopted
8 pursuant to this act shall be adopted by the county board of
9 commissioners and shall be signed by the chairperson of the county
10 board of commissioners and certified by the county clerk.

11 (2) A governmental subdivision that has assumed the
12 responsibility for administering and enforcing this act and the
13 code may, through its chief legal officer, issue a complaint and
14 obtain a warrant for a violation of this act or the code and
15 prosecute the violation with the same power and authority it
16 possesses in prosecuting a local ordinance violation. If pursuant
17 to section 23, a governmental subdivision has by ordinance
18 designated a violation of the act or code as a municipal civil
19 infraction, the governmental subdivision may issue a citation or
20 municipal ordinance violation notice pursuant to chapter 87 of the
21 revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to
22 600.8735, for a violation of the act or code. Unless otherwise
23 provided by local law or ordinance, the legislative body of a
24 governmental subdivision responsible for administration and
25 enforcement of this act and the code shall designate an enforcing
26 agency that shall discharge the responsibilities of the
27 governmental subdivision under this act. Governmental subdivisions

1 may provide by agreement for joint enforcement of this act.

2 (3) Subject to the other provisions of this act, an enforcing
3 agency is any official or agent of a governmental subdivision that
4 is registered under the building officials and inspectors
5 registration act, 1986 PA 54, MCL 338.2301 to 338.2313, qualified
6 by experience or training to perform the duties associated with
7 construction code administration and enforcement.

8 (4) Before ~~the effective date of this section~~ **DECEMBER 28,**
9 **1999**, the director shall provide each governmental subdivision
10 administering and enforcing this act and the code with a notice of
11 intent form. This form shall set forth the date return receipt is
12 required, which date shall not be less than 60 days. The chief
13 elected official of the governmental subdivision that receives this
14 notice shall indicate on the form the intention of the governmental
15 subdivision as to whether it shall continue to administer and
16 enforce this act and the code and transmit this notice to the
17 director within the prescribed period. If a governmental
18 subdivision fails to submit a notice of intent to continue to
19 administer and enforce this act and the code within the date set
20 forth in the notice, the director shall send a notice by registered
21 mail to the clerk of that governmental subdivision. This notice
22 shall indicate that the governmental subdivision has 15 additional
23 days in which to submit a notice of intent to continue to
24 administer and enforce this act and the code. If the governmental
25 subdivision does not respond by the end of the 15 additional days,
26 it shall be conclusively presumed that the governmental subdivision
27 does not intend to continue to administer and enforce this act and

1 the code and the director shall assume the responsibility for
2 administering and enforcing this act and the code in that
3 governmental subdivision, unless the county within which the
4 governmental subdivision is located submits a notice of intent to
5 continue to administer and enforce this act and the code.

6 (5) A county that is administering and enforcing this act and
7 the code on ~~the effective date of this section~~ **DECEMBER 28, 1999**
8 and that submits a notice of intent to continue to administer and
9 enforce this act and the code pursuant to subsection (4) is
10 responsible for the administration and enforcement of this act and
11 the code for each governmental subdivision within the county that
12 does not submit a notice of intent to continue to administer and
13 enforce this act and the code. The director shall notify the county
14 of those governmental subdivisions that do not submit a notice of
15 intent.

16 (6) A governmental subdivision that, before ~~the effective~~
17 ~~date of this section~~ **DECEMBER 28, 1999**, did not administer and
18 enforce this act and the code may elect to assume the
19 responsibility for the administration and enforcement of this act
20 and the code pursuant to subsection (1) by the passage of an
21 ordinance to that effect. A governmental subdivision that makes
22 this election after ~~the effective date of this section~~ **DECEMBER**
23 **28, 1999** shall submit, in addition to the ordinance, an application
24 to the commission for approval to administer and enforce this act
25 and the code within its jurisdiction. This application shall be
26 made on the proper form to be provided by the commission. The
27 standards for approval shall include, but not be limited to, the

1 certification by the governmental subdivision that the enforcing
2 agency is qualified by experience or training to administer and
3 enforce this act and the code and all related acts and rules, that
4 agency personnel are provided as necessary, that administrative
5 services are provided, that plan review services are provided, and
6 that timely field inspection services will be provided. The
7 director shall seek additional information if the director
8 considers it necessary. The commission shall render a decision on
9 the application for approval to administer and enforce this act and
10 the code and transmit its findings to the governmental subdivision
11 within 90 days of receipt of the application. The commission shall
12 document its reasons, if the commission disapproves an application.
13 A governmental subdivision that receives a disapproval may resubmit
14 its application for approval. Upon receipt of approval from the
15 commission for the administration and enforcement of this act and
16 the code, the governmental subdivision shall administer and enforce
17 this act and the code within its jurisdiction pursuant to the
18 provisions of this act and the application.

19 (7) A governmental subdivision that elects to administer and
20 enforce this act and the code within its jurisdiction by the
21 adoption of an ordinance may rescind that ordinance and transfer
22 the responsibility for the administration and enforcement of this
23 act and the code to the director. The director shall assume the
24 responsibility for administering and enforcing this act and the
25 code in that governmental subdivision, unless the county within
26 which that governmental subdivision is located has submitted a
27 notice of intent to continue to administer and enforce the code.

1 However, that action shall not take effect until 12 months after
2 the passage of an ordinance to that effect. A structure commenced
3 under an effective code shall be completed under that code.

4 (8) The director is responsible for administration and
5 enforcement of this act and the code for buildings and structures
6 that are not under the responsibility of an enforcing agency in
7 those governmental subdivisions that elect to administer and
8 enforce this act and the code. A building or structure owned by the
9 state shall not be erected, remodeled, or reconstructed in the
10 state, except school buildings or facilities or institutions of
11 higher education as described in section 4 of article VIII of the
12 state constitution of 1963, until written approval of the plans and
13 specifications has been obtained from the bureau of construction
14 codes **AND SAFETY** located within the department indicating that the
15 state owned facilities shall be designed and constructed in
16 conformance with the state construction code. The bureau of
17 construction codes **AND SAFETY** shall be the lead agency in the
18 coordination and implementation of this subsection. The bureau of
19 construction codes **AND SAFETY** shall perform required plan reviews
20 and inspections as required by the state construction code. Each
21 department shall secure required plan approvals and permits from
22 the bureau. Fees charged by the bureau for permits shall be in
23 accordance with the commission's approved schedule of fees. State
24 departments and institutions may allow local inspectors to inspect
25 the construction of state owned facilities. However, an inspection
26 conducted by a local inspector shall be of an advisory nature only.

27 (9) This section does not affect the responsibilities of the

1 commission for administration and enforcement of this act under
2 other sections of this act, or responsibilities under the fire
3 prevention code, 1941 PA 207, MCL 29.1 to ~~29.34, except sections 6~~
4 ~~and 7 of the fire prevention code, 1941 PA 207, MCL 29.6 and 29.7~~
5 **29.33**; 1937 PA 306, MCL 388.851 to 388.855a; the ~~fire fighters~~
6 **FIREFIGHTERS** training council act of 1966, 1966 PA 291, MCL 29.361
7 to 29.377; 1942 (1st Ex Sess) PA 9, MCL 419.201 to 419.205; parts
8 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501
9 to 333.21799e; and section 58 of the social welfare act, 1939 PA
10 280, MCL 400.58.

11 (10) Pursuant to parts 215 and 217 of the public health code,
12 1978 PA 368, MCL 333.21501 to 333.21799e, the director shall
13 develop consistent construction standards for hospitals and nursing
14 homes. These standards shall ensure that consistent, uniform, and
15 equitable construction requirements and state supervision of the
16 requirements are achieved. This subsection does not preclude a
17 state agency or a governmental subdivision from conducting plan
18 reviews or inspections necessary to ensure compliance with approved
19 construction plans.

20 (11) Except as otherwise provided in this act, this act does
21 not limit or restrict existing powers or authority of governmental
22 subdivisions, and this act shall be enforced by governmental
23 subdivisions in the manner prescribed by local law or ordinance. To
24 the extent not inconsistent with this act, local laws and
25 ordinances relating to administration and enforcement of
26 construction regulations enacted before the effective date of the
27 code by or for a governmental subdivision are applicable to

1 administration and enforcement of the code in that governmental
2 subdivision.

3 Enacting section 1. This amendatory act does not take effect
4 unless all of the following bills of the 93rd Legislature are
5 enacted into law:

6 (a) Senate Bill No. 1133.

7 (b) House Bill No. 5860.