

# SENATE BILL No. 373

May 10, 2017, Introduced by Senator JONES and referred to the Committee on Michigan Competitiveness.

A bill to amend 1937 PA 306, entitled

"An act to promote the safety, welfare, and educational interests of the people of the state of Michigan by regulating the construction, reconstruction, and remodeling of certain public or private school buildings or additions to such buildings, by regulating the construction, reconstruction, and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts,"

by amending sections 1, 1a, and 2 (MCL 388.851, 388.851a, and 388.852), section 1 as amended by 2004 PA 510 and section 2 as amended by 2002 PA 627.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. (1) Except as provided in subsection (2), a school  
2 building, public or private, or any additions to a school building,  
3 shall not be erected, remodeled, or reconstructed in this state

1 unless all of the following requirements are met:

2 (a) All plans and specifications for buildings shall be  
3 prepared by an architect or professional engineer who is licensed  
4 in this state **OR A DESIGN-BUILDER THAT EMPLOYS AN ARCHITECT OR**  
5 **PROFESSIONAL ENGINEER WHO IS LICENSED IN THIS STATE.** An architect  
6 or professional engineer licensed in this state, **A DESIGN-BUILDER,**  
7 or another person qualified to supervise construction shall  
8 supervise the construction of a school building. For energy  
9 conservation improvements and services under section 1274a of the  
10 revised school code, 1976 PA 451, MCL 380.1274a, the licensed  
11 architect or professional engineer may be directly affiliated with  
12 the qualified provider, as defined under that section, that is  
13 providing the applicable improvements and services. However, the  
14 specifications for the project shall be generic in character and,  
15 to the extent possible, shall not include proprietary equipment or  
16 technology developed by the qualified provider or in which the  
17 qualified provider has an interest.

18 (b) All walls, floors, partitions, and roofs shall be  
19 constructed of fire-resisting materials such as stone, brick, tile,  
20 concrete, gypsum, steel, or similar fire-resisting material. All  
21 steel members shall be protected by at least 3/4 of an inch of  
22 fire-resisting material.

23 (c) Wood lath or wood furring shall not be used in the  
24 construction. This requirement does not prohibit the use of  
25 finished wood flooring, wood door and window frames, wood sash, or  
26 wood furring and grounds, for the purpose of installing wood trim,  
27 panelling, acoustical units, or similar facing materials on masonry

1 walls, structural steel, or concrete ceiling members.

2 (d) Every room enclosing a heating unit shall be enclosed by  
3 walls of fire-resisting materials and shall be equipped with  
4 automatically closing fire doors. A heating unit shall not be  
5 located directly beneath any portion of a school building or  
6 addition that is constructed or reconstructed after January 1,  
7 2003. This requirement does not require the removal of an existing  
8 heating plant from beneath an existing building when an addition to  
9 the building is constructed unless the department requires that  
10 removal in the interests of the public safety. In any school where  
11 natural gas or any other kind of gas is used for heating purposes,  
12 the gas shall be chemically treated before being used in such a  
13 manner as to give a very distinguishable odor if a leak develops in  
14 the heating system.

15 (e) In a gymnasium, fire-proofings may be omitted from the  
16 trusses and purlins if they are more than 16 feet off the main  
17 floor level.

18 (f) The architect or engineer shall provide adequate exits  
19 from all parts of a school building. In all cases, there shall be  
20 at least 2 stairways and the distance from the door of any class or  
21 assembly room to a stairway or exit shall not exceed 100 feet.

22 (g) A requirement in subdivisions (b) to (f) may be waived in  
23 writing by the department.

24 (h) Compliance with section 1b.

25 (2) The director of the department shall promulgate rules that  
26 establish standards and requirements for the relocation and reuse  
27 of used modular classrooms. The rules shall require an inspection

1 of a relocated used modular classroom at its original location, at  
2 its new location, or at any location where repairs are made to the  
3 used modular classroom.

4 (3) As used in this section, "department" means the department  
5 of labor and economic growth.

6 Sec. 1a. (1) Words and phrases used in this act shall be  
7 defined as follows:

8 (a) ~~"School buildings" shall include all buildings used for~~  
9 ~~school purposes.~~ "ADDITION" MEANS ADDED SPACE THAT RESULTS IN  
10 ADDITIONAL CUBIC CONTENTS TO AN EXISTING SCHOOL BUILDING.

11 (B) "CONSTRUCTION-MANAGER-AT-RISK SERVICES" MEANS A PROJECT  
12 DELIVERY METHOD THAT MEETS ALL OF THE FOLLOWING:

13 (i) THE SCHOOL DISTRICT CONTRACTS WITH 1 INDIVIDUAL OR ENTITY  
14 FOR DESIGN SERVICES AND CONTRACTS WITH A DIFFERENT INDIVIDUAL OR  
15 ENTITY FOR CONSTRUCTION SERVICES.

16 (ii) THE SCHOOL DISTRICT MAY CONTRACT FOR CONSTRUCTION  
17 SERVICES AT THE SAME TIME AS THE SCHOOL DISTRICT CONTRACTS FOR  
18 DESIGN SERVICES OR AT A LATER TIME.

19 (iii) DESIGN AND CONSTRUCTION OF THE PROJECT MAY BE EITHER OF  
20 THE FOLLOWING:

21 (A) SEQUENTIAL WITH THE ENTIRE DESIGN COMPLETE BEFORE  
22 CONSTRUCTION COMMENCES.

23 (B) CONCURRENT WITH THE DESIGN PRODUCED IN 2 OR MORE PHASES  
24 AND CONSTRUCTION OF SOME PHASES COMMENCING BEFORE THE ENTIRE DESIGN  
25 IS COMPLETE.

26 (iv) FINANCE SERVICES, MAINTENANCE SERVICES, OPERATIONS  
27 SERVICES, PRECONSTRUCTION SERVICES, AND OTHER RELATED SERVICES MAY

1 BE INCLUDED.

2 (v) SELECTION IS A SINGLE-PHASE SELECTION PROCESS USING  
3 QUALIFICATIONS-BASED SELECTION.

4 (C) "DESIGN-BUILD CONSTRUCTION SERVICES" MEANS A PROJECT  
5 DELIVERY METHOD THAT MEETS ALL OF THE FOLLOWING:

6 (i) THE SCHOOL DISTRICT CONTRACTS WITH A SINGLE INDIVIDUAL OR  
7 ENTITY FOR BOTH DESIGN SERVICES AND CONSTRUCTION SERVICES.

8 (ii) DESIGN AND CONSTRUCTION OF THE PROJECT MAY BE EITHER OF  
9 THE FOLLOWING:

10 (A) SEQUENTIAL WITH THE ENTIRE DESIGN COMPLETE BEFORE  
11 CONSTRUCTION COMMENCES.

12 (B) CONCURRENT WITH THE DESIGN PRODUCED IN 2 OR MORE PHASES  
13 AND CONSTRUCTION OF SOME PHASES COMMENCING BEFORE THE ENTIRE DESIGN  
14 IS COMPLETE.

15 (iii) FINANCE SERVICES, MAINTENANCE SERVICES, OPERATIONS  
16 SERVICES, DESIGN SERVICES, PRECONSTRUCTION SERVICES, AND OTHER  
17 RELATED SERVICES MAY BE INCLUDED.

18 (iv) SELECTION IS EITHER A SINGLE-PHASE SELECTION USING  
19 QUALIFICATIONS-BASED SELECTION OR A 2-PHASE SELECTION USING  
20 QUALIFICATIONS-BASED SELECTION IN THE FIRST PHASE AND USING BEST-  
21 VALUE SELECTION IN THE SECOND PHASE.

22 (D) "DESIGN-BUILDER" MEANS AN ENTITY THAT PROVIDES DESIGN-  
23 BUILD CONSTRUCTION SERVICES OR CONSTRUCTION-MANAGER-AT-RISK  
24 SERVICES. DESIGN-BUILDERS MUST HAVE EMPLOYEES CERTIFIED IN DESIGN-  
25 BUILD BY THE DESIGN BUILD INSTITUTE OF AMERICA OR ANY OTHER  
26 NATIONAL DESIGN-BUILD ACCREDITATION PROGRAM.

27 (E) ~~(b)~~—"Remodeling" shall mean the alteration, construction

1 or remodeling of partitions, hallways, stairways and means of  
2 egress, the replacement, relocation or reconstruction of heating,  
3 ventilating and sanitary equipment.

4 ~~—— (c) "Addition" shall mean added space which results in~~  
5 ~~additional cubic contents to existing building.~~

6 **(F) "SCHOOL BUILDING" MEANS A BUILDING USED FOR SCHOOL**  
7 **PURPOSES.**

8 **(G)** ~~(d)~~—"Total cost" shall be interpreted to mean the monetary  
9 worth of the building when ready for occupancy, regardless of the  
10 source of funds, labor or material and shall include the cost of  
11 general construction, plumbing, heating and ventilation, electrical  
12 work, all fixed equipment, together with the cost of architects,  
13 engineers and building superintending services.

14 **(2)** ~~(e)~~—A building having a basement shall be considered to be  
15 a 2 story building for the purposes of this act.

16 Sec. 2. (1) The licensed architect, ~~or~~ engineer, **OR DESIGN-**  
17 **BUILDER** preparing the plans and specifications of a school building  
18 is responsible for assuring that the design documents provide for a  
19 structure with sufficient structural strength and fire resistance  
20 and that the building will meet all applicable codes, standards,  
21 and regulations.

22 (2) The person supervising the construction of a school  
23 building is responsible for the construction of the school building  
24 in conformance with the approved plans and specifications prepared  
25 by the licensed architect, ~~or~~ engineer, **OR DESIGN-BUILDER.**

26 (3) A person that violates this section is subject to all of  
27 the following:

1 (a) A state civil infraction punishable by a civil fine of not  
2 more than \$10,000.00.

3 (b) If the person knowingly violated this section, a  
4 misdemeanor punishable by a fine of not more than \$10,000.00 or  
5 imprisonment for not more than 180 days, or both.

6 (4) THE DESIGN-BUILDER PERFORMING THE CONSTRUCTION SERVICES IS  
7 PERMITTED TO SELF-PERFORM PART OF THE CONSTRUCTION WORK IF AND TO  
8 THE EXTENT AGREED TO IN WRITING BY THE SCHOOL DISTRICT AND THE  
9 DESIGN-BUILDER. THE SCHOOL DISTRICT MAY USE METHODS OTHER THAN  
10 COMPETITIVE BIDDING TO ASSURE ITSELF THAT THE PRICE THE SCHOOL  
11 DISTRICT PAYS TO THE CONTRACTOR FOR SELF-PERFORMED WORK IS FAIR AND  
12 REASONABLE.

13 (5) THE DESIGN-BUILDER SELECTED TO PERFORM THE CONSTRUCTION  
14 SERVICES SHALL SELECT SUBCONTRACTORS BASED ON QUALIFICATIONS ALONE  
15 OR ON A COMBINATION OF QUALIFICATIONS AND PRICE AND SHALL NOT  
16 SELECT SUBCONTRACTORS BASED ON PRICE ALONE. A QUALIFICATIONS AND  
17 PRICE SELECTION MAY BE A SINGLE-STEP SELECTION BASED ON A  
18 COMBINATION OF QUALIFICATIONS AND PRICE OR A 2-STEP SELECTION. IN A  
19 2-STEP SELECTION, THE FIRST STEP SHALL BE BASED ON QUALIFICATIONS  
20 ALONE AND THE SECOND STEP MAY BE BASED ON A COMBINATION OF  
21 QUALIFICATIONS AND PRICE OR ON PRICE ALONE.