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House Bill 5538 (Substitute H-3 as passed by the House)  
Sponsor: Representative Sara Cambensy  
House Committee: Regulatory Reform  
Senate Committee: Regulatory Reform

Date Completed: 9-20-22

### **CONTENT**

**The bill would amend Public Act 306 of 1937, which governs the construction, reconstruction, and remodeling of school buildings, to do the following:**

- **Allow a design-builder who employed an architect or a professional engineer and who prepared the plans or specifications for the construction or remodeling of a school building to prepare all plans and specifications for the building.**
- **Allow a design-builder that employed an architect or a professional engineer to construct or remodel a school building, or any additions, if that architect or professional engineer directly supervised the construction or remodeling and the reviews of materials used in and phases of construction.**
- **Apply certain requirements concerning the construction or remodeling of a school building to a design-builder.**

### **Definitions**

Under the bill, "construction" would mean that term as defined in Section 2a of the Stille-DeRossett-Hale Single State Construction Code: the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

"Design-builder" would mean an entity that provides design-build construction services. "Design-build construction services" would mean a project delivery method that meets all the following requirements:

- A school district engages the services of a design-criteria developer to prepare a design-criteria package of the school district for a design-build project.
- A school district contracts with a single individual or entity for design services 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.

"Design-criteria developer" would mean an individual who meets the following requirements:

- Is a licensed architect in the State.
- Is responsible for preparing a design-criteria package.

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

"Architect or professional engineer" would mean an architect or professional engineer licensed under Article 20 of the Occupational Code. "Qualified provider" would mean that term as defined in Section 1274a of the Revised School Code: an individual or a business entity that is experienced in performing design, analysis, and installation of energy conservation improvements or operational improvements and facility energy management measures and that will provide these services under the contract with a guarantee or on a performance basis.

### School Building Construction

Except as otherwise provided, the Act prohibits the erection, remodeling, or reconstruction of a public or private school building, or any additions to the school building, unless certain requirements are met. Under the bill, except as otherwise provided, the construction or remodeling of a public or private school building, or any additions to the school building, would be prohibited, unless certain requirements were met.

Among other requirements, the Act specifies that an architect or professional engineer who is licensed in the State must prepare all plans and specifications for buildings. For energy conservation improvements and services under Section 1274a of the Revised School Code, the licensed architect or professional engineer may be directly affiliated with a qualified provider that is providing the applicable improvements and services. The bill would delete the requirement that the architect or professional engineer be licensed in the State and would allow a design-builder who employed an architect or professional engineer and who prepared the plans or specifications to prepare all plans and specifications for buildings. The bill also would allow a design-builder to be affiliated directly with the qualified provider that was providing the applicable improvements and services for energy conservation improvements and services under Section 1274a of the Revised School Code.

(Section 1274a specifies that energy conservation improvements may include: adding square footage to existing school facilities; building envelope improvements; heating, ventilating, and cooling upgrades; lighting retrofits; installing or upgrading an energy management system; motor, pump, or fan replacements; domestic water use reductions; information technology improvements associated with an energy conservation improvement to school facilities; municipal utility improvements associated with an energy conservation improvement to school facilities; and upgrading other energy consuming equipment or appliances.)

The Act also requires an architect or professional engineer licensed in the State, or another person qualified to supervise construction, to supervise the construction of a school building. Under the bill, except as provided below, an architect or professional engineer or another person qualified to supervise construction or remodeling would have to supervise the construction or remodeling of a school building.

In addition, the Act requires the architect or engineer to provide adequate exits from all parts of a school building. The bill would apply this requirement to a design-builder.

Subject to the requirements prescribed by the Act for the construction or remodeling of a public or private school building, the bill would allow a design-builder that employed an architect or a professional engineer to construct or remodel a school building, or any additions, if that architect or professional engineer directly supervised all the following:

- The construction or remodeling of the school building.
- The review of the materials used in the construction or remodeling of the school building.
- The review of the completed phases of the construction or remodeling of the school building.

Under the Act, the architect or engineer preparing the plans and specifications of a school building is responsible for assuring that the design documents provide for a structure with sufficient structural strength and fire resistance and that the building will meet all applicable codes, standards, and regulations. The person supervising the construction of the school building is responsible for the construction of the school building in conformance with the approved plans and specifications prepared by the architect and professional engineer. The bill would apply this requirement to a design-builder.

MCL 388.851 et al.

Legislative Analyst: Eleni Lionas

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Jonah Houtz

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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.