



**House
Legislative
Analysis
Section**

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SCHOOL-RELATED CONSTRUCTION

House Bill 5451 as enrolled
Second Analysis (8-29-90)

Sponsor: Rep. Gary L. Randall
House Committee: Education
Senate Committee: Education & Mental Health

THE APPARENT PROBLEM:

Public Act 431 of 1982 amended the School Code to require school districts to obtain competitive bids on supplies, materials, and equipment, and, in second, third and fourth class districts, labor, for new construction or additions to or repairs or renovations of existing school buildings. The act, however, limits this provision to projects costing \$10,000 or more. Before the 1982 legislation, the threshold limit was \$2,000 — a limit established in 1955 — which some felt was too restrictive after accounting for inflation. Eight years later, some feel the \$10,000 threshold, again, after figuring in the effect of inflation, is too low and suggest raising it to an amount in keeping with today's cost-of-living index. Also, it has been suggested that the annual threshold at which bids must be taken be adjusted yearly based on changes in the consumer price index.

Also, during its plans to build a number of school-related facilities (bus garage, tennis courts, and other "noninstructional" buildings), the Birmingham School District discovered that some of its design and site plans conflicted with various local building codes. The conflict in this specific instance caused some people to wonder just how state law treats noninstructional school buildings. At issue is whether all school-related buildings (rather than just "instructional" ones) are governed by Public Act 306 of 1937, the school construction code, or by the state construction code. If noninstructional buildings are covered under the latter, they are also subject to local building codes. Though Public Act 306 does not clearly specify whether it applies to noninstructional buildings, some people — relying on earlier attorney general opinions — feel noninstructional design and site plans should be subject to approval by state authorities only and believe the School Code should be amended to provide for this.

THE CONTENT OF THE BILL:

The bill would amend the School Code to raise the threshold for requiring competitive bids for school construction, renovation and purchasing from \$10,000 to \$12,500, and further specifies that this amount would be adjusted each year according to changes in the consumer price index.

The act also specifies that third and fourth class school district boards must open and examine bids at a board meeting, whereas a second class district must do this at a special "public bid meeting." (A first class school district — only the Detroit School District — is subject to a different bid process.) The bill would require all districts (except first class) to open and read aloud all bids required under the act at a public bid meeting.

Finally, the bill specifies that a school district board could not design or build a school building to be used for instructional or noninstructional school purposes or design and implement a design for a school site unless the design

or construction complied with Public Act 306 of 1937. Under the bill, the superintendent of public instruction would have sole and exclusive jurisdiction over the review and approval of plans and specifications for construction-related work done on instructional or noninstructional school buildings as well as over site plans for the buildings.

MCL 380.623a, 380.1267 and 380.1274

FISCAL IMPLICATIONS:

According to the Department of Education, the bill would have budgetary implications for the state as it would require the department to review both design plans and site plans for instructional and noninstructional school buildings (the department now is responsible only to review design plans for instructional buildings). Under the bill, the department would need up to two additional FTEs and one secretary to accomplish these added duties — at a cost of approximately \$200,000 annually. Also, according to the state fire marshal (within the Department of State Police), the bill would have an added cost to its agency if the Department of Education delegated to it responsibility to review noninstructional facilities; the cost of this would depend on what duties were delegated. (8-27-90)

ARGUMENTS:

For:

Obtaining competitive bids for the expenditure of public funds is sound public policy which should continue to be applied whenever practicable. The bill would simply raise the threshold at which bids must be taken from \$10,000 to \$12,500 to adjust for the effects of inflation. This amount was last raised in 1982, also to account for inflation, in order that the competitive bid requirement would not be too restrictive when only smaller expenditures were to be made. Also, to ensure that the legislature need not have to adjust this amount again, the bill would provide for an automatic adjustment based on any changes in the consumer price index from one year to the next. The \$12,500 threshold would apply to all districts relative to the purchase of supplies, materials, and equipment, whereas a first class district (i.e. the Detroit School District) would be exempt from this provision as it applies to school-related construction projects. (The competitive bidding process for Detroit is tailored to fit its own special needs.)

For:

Currently, third and fourth class school districts that are required to have an open bid process on a project are required to examine bids simply at a public board meeting, as opposed to a "public bid meeting" (required for second class districts) — essentially, a trade name for a special meeting advertised in advance. While there may only be a nominal difference between the two types of meetings, requiring the bid meeting essentially opens the bidding

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process up to more bidders and provides for more thorough scrutiny of bids before a board makes its final decision.

Response: Requiring this procedure for smaller districts may not accomplish the bill's intended purpose, as the process is time-consuming and could even result in higher costs in some cases.

For:

By prohibiting school boards from designing or building school buildings used for instructional or noninstructional purposes unless design plans conform with requirements of Public Act 306 of 1937, the bill would clarify that this act (and not the state construction code act) would apply to "school" buildings that were not specifically meant for instructional purposes. Apparently, some recent judicial interpretations have indicated that school buildings such as these (for instance, a bus garage) are subject to local control. Also, as some school districts have territory which lies in different municipalities, questions have arisen over whose building code guidelines apply in specific situations. The bill specifies that final authority over school-related construction plans would belong to the superintendent of public instruction. (This authority actually belongs to the Department of Education under Public Act 380 of 1965. According to a DOE spokeswoman, review of school-related design and construction plans is currently done under an interagency agreement between the department and other state agencies.)

Response: According to the Legislative Service Bureau, rather than citing Public Act 306 via the School Code, Public Act 306 should be directly amended to indicate (or clarify) its authority over design and site plans for both instructional and noninstructional school buildings.

Against:

Provisions that would give the state "sole and exclusive jurisdiction" over plan approval would be too costly for the departments and agencies that would have to review both design and site plans for all school-related buildings. According to the Department of Education, the bill could cost the department up to \$200,000 for additional professional staff to fulfill the bill's requirements. The state fire marshal, too, could have added costs under the bill.

Response: Regardless of the cost, the state is responsible to see that all school-related construction meets appropriate safety standards. Apparently, according to a spokesman from the Birmingham School District, since 1982 the state has reduced the amount of time and money it spends on reviewing both design and site plans for school construction. Such actions seem irresponsible and could threaten the safety and well-being of school children throughout the state.

Against:

Due to conflicting opinions on who is responsible for design and site plan approval on school-related buildings, this issue should be dealt with separately and more comprehensively. Amending the School Code to try and clarify the issue would merely make matters worse. Clarifying legislation should address the proper acts: the school construction act (Public Act 306 of 1937) and the state construction code act.