

tion, addition, repair, or renovation; bids; exception; reading of bids; rejection of bids; readvertising; local Michigan-based business; applicability of section; adjustment of maximum amount; "Michigan-based business" defined.

Sec. 1267. (1) Before commencing construction of a new school building, or addition to or repair or renovation of an existing school building, except repair in emergency situations, the board of a school district or intermediate school district or board of directors of a public school academy, shall obtain competitive bids on all the material and labor required for the complete construction of a proposed new building or addition to or repair or renovation of an existing school building.

(2) The board, intermediate school board, or board of directors shall advertise for the bids required under subsection (1) by placing an advertisement for bids at least once in a newspaper of general circulation in the area where the building or addition is to be constructed or where the repair or renovation of an existing building is to take place and by posting an advertisement for bids for at least 2 weeks on the department of management and budget website on a page on the website maintained for this purpose or on a website maintained by a school organization and designated by the department of management and budget for this purpose. If the department of management and budget designates a school organization website for this purpose, the department of management and budget shall indicate this fact on its website and include a link on its website to the school organization website.

(3) The advertisement for bids shall do all of the following:

(a) Specify the date and time by which all bids must be received by the board, intermediate school board, or board of directors.

(b) State that the board, intermediate school board, or board of directors will not consider or accept a bid received by the board, intermediate school board, or board of directors after the date and time specified for bid submission.

(c) Identify the time, date, and place of a public meeting at which the board, intermediate school board, or board of directors or its designee will open and read aloud each bid received by the board, intermediate school board, or board of directors by the date and time specified in subdivision (a).

(d) State that the bid shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the bidder and any member of the board, intermediate school board, or board of directors or the superintendent of the school district, intermediate superintendent of the intermediate school district, or chief executive officer of the public school academy. A board, intermediate school board, or board of directors shall not accept a bid that does not include this sworn and notarized disclosure statement.

(4) The board, intermediate school board, or board of directors shall require each bidder for a contract under this section to file with the board, intermediate school board, or board of directors security in an amount not less than 1/20 of the amount of the bid conditioned to secure the school district from loss or damage by reason of the withdrawal of the bid or by the failure of the bidder to enter a contract for performance, if the bid is accepted by the board, intermediate school board, or board of directors.

(5) The board, intermediate school board, or board of directors shall not open, consider, or accept a bid that the board, intermediate school board, or board of directors receives after the date and time specified for bid submission in the advertisement for bids described in subsection (3).

(6) At a public meeting identified in the advertisement for bids described in subsection (3), the board, intermediate school board, or board of directors or its designee shall open and read aloud each bid that the board, intermediate school board, or board of directors received at or before the time and date for bid submission specified in the advertisement for bids. The board, intermediate school board, or board of directors may reject any or all bids, and if all bids are rejected, shall readvertise in the manner required by this section.

(7) The board of a school district or intermediate school district or board of directors of a public school academy may adopt and implement a local policy that gives a preference to a Michigan-based business in awarding a contract under this section. The policy may provide for a preference based on the status of the primary contractor as a Michigan-based business or based on the status of 1 or more subcontractors of the primary contractor as Michigan-based businesses, or both. A policy adopted under this subsection shall be consistent with federal statutes and regulations and shall not be applied to a contract that is to be paid with federal funds. Upon request by a school district, intermediate school district, or public school academy that has adopted and implemented a policy described in this subsection, the department of treasury shall disclose to that school district, intermediate school district, or public school academy verifying information as described in section 268(3) of the management and budget act, 1984 PA 431, MCL 18.1268. The adoption,

described in this subsection, or a decision not to adopt, implement, or take any other course of action.

repairs, renovations, or repairs costing less than \$20,959.00 or to

repair work normally performed by school district, intermediate school board, or public school academy employees. The maximum amount specified in this subsection shall be adjusted each year by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar.

(9) As used in this section, "Michigan-based business" means a business that would qualify for a preference in a procurement contract with this state under section 268 of the management and budget act, 1984 PA 431, MCL 18.1268.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;¾ Am. 1982, Act 431, Imd. Eff. Dec. 29, 1982;¾ Am. 1990, Act 159, Imd. Eff. July 2, 1990;¾ Am. 1994, Act 278, Imd. Eff. July 11, 1994;¾ Am. 1994, Act 416, Eff. Mar. 30, 1995;¾ Am. 1995, Act 289, Eff. July 1, 1996;¾ Am. 2004, Act 232, Imd. Eff. July 21, 2004;¾ Am. 2008, Act 540, Imd. Eff. Jan. 13, 2009.

Popular name: Act 451

380.1268 Repealed. 1995, Act 289, Eff. July 1, 1996.

Compiler's note: The repealed section pertained to school property as community or recreation center.

Popular name: Act 451

380.1269 Insuring school district or public school academy property.

Sec. 1269. The board of a school district other than a first class school district shall insure school district property unless otherwise directed by the school electors. The governing board of a public school academy shall insure public school academy property. The insurance may be obtained from mutual, stock, or other responsible companies licensed to do business in this state.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;¾ Am. 1995, Act 289, Eff. July 1, 1996.

Popular name: Act 451

380.1270 Repealed. 1995, Act 289, Eff. July 1, 1996.

Compiler's note: The repealed section pertained to accident or medical insurance program for pupils.

Popular name: Act 451

380.1272 Meal program for pupils.

Sec. 1272. The board of a school district may use general funds to provide the necessary personnel, equipment, supplies, and food to furnish meals for regularly enrolled pupils, and may accept produce and financial reimbursement from the state to supplement the resources of the district. The board may provide the meal program by contract or it may engage directly in the business. The board may charge a fee for each meal furnished in accordance with sections 1272a to 1272d.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;¾ Am. 1977, Act 43, Imd. Eff. June 29, 1977;¾ Am. 1991, Act 167, Imd. Eff. Dec. 19, 1991.

Popular name: Act 451

380.1272a Lunch program; breakfast program.

Sec. 1272a. (1) The board of a K to 12 school district shall, and the board of another school district may, establish and operate a program under which lunch is made available to all full-time pupils enrolled and in regular daily attendance at each public school of the school district.

(2) The board of a K to 12 school district shall establish and operate a program under which breakfast is made available to all full-time pupils enrolled and in regular daily attendance at each public school of the school district unless no more than 20% of the pupils enrolled in the school building in the immediately preceding school year met the income eligibility criteria for free or reduced-price lunch under the federally funded school lunch program, as determined using October claims reported to the department by December 31 of the immediately preceding school year, and, after a public hearing on the issue, which shall be held annually with notice to parents and pupils, the board decides not to operate such a program in that school building and publishes a public justification report explaining its decision. The board of another school district may establish and operate a school breakfast program.

(3) To the extent permitted by federal law, the department shall encourage innovative cost effective models

ze pupil participation.

77; 3/4 Am. 1990, Act 35, Imd. Eff. Mar. 22, 1990; 3/4 Am. 1993, Act 335, Imd. Eff.

Popular name: Act 451

380.1272b Nutritional standards; fees; free and reduced price meals; free milk; confidentiality; discrimination; planning and evaluation of meals and other foods.

Sec. 1272b. In all programs established and operated pursuant to section 1272a:

(a) Nutritional standards prescribed by the United States department of agriculture pursuant to section 9 of the national school lunch act, 42 U.S.C. 1758, shall be met and maintained.

(b) The board may charge a fee for meals or milk, but the fee shall not exceed the actual average daily cost, including necessary supervision, of the meal or milk and accessories, less the amount of food and financial assistance received by the board for the meal or milk.

(c) The board shall provide free and reduced price meals and free milk to all pupils eligible under the maximum standards prescribed by the United States department of agriculture pursuant to section 9 of the national school lunch act, 42 U.S.C. 1758; shall ensure the confidentiality of all information contained in applications for eligibility; and shall further ensure that eligible pupils are not discriminated against or overtly identified in any manner.

(d) The board shall provide for parent and pupil participation in the planning and evaluation of school meals and other foods sold or dispensed on school premises.

History: Add. 1977, Act 43, Imd. Eff. June 29, 1977.

Popular name: Act 451

380.1272c Applicability of MCL 380.1272a.

Sec. 1272c. The requirements of section 1272a shall not apply:

(a) In a school year in which the federal subsidy per meal falls below the 1975-76 level or the state subsidy per meal served is less than the figures specified in section 1272d(b) and (c).

(b) In a school district during a school year when the state board finds that a financial emergency exists which renders the school district unable to comply fully with the requirements. The board of the school district may apply, in writing, to the state board, not later than July 1 for a subsequent school year, demonstrating the need for noncompliance and describing the programs and services that can be provided and the efforts being undertaken to alleviate the emergency. If the state board finds that an emergency exists, it shall approve the noncompliance or prescribe conditions for partial compliance. The state board may extend the filing date for good cause.

History: Add. 1977, Act 43, Imd. Eff. June 29, 1977.

Popular name: Act 451

380.1272d Duties of department of education.

Sec. 1272d. The department of education shall do all of the following:

(a) Prescribe a uniform reporting system for the collection, compilation, and analysis of data relative to the administration of this section and section 1272a.

(b) Pay a school district for each free meal served pursuant to section 1272b(c) an amount calculated by subtracting the federal reimbursement rate for a free meal from the actual cost of the meal, but not to exceed 5 cents per meal.

(c) Pay a school district for each reduced price meal served pursuant to section 1272b(c) an amount calculated by subtracting the sum of the federal reimbursement rate for a reduced price meal and the fee charged from the actual average cost of the meal, but not to exceed 2 cents per meal.

(d) For 1982-83 and thereafter, payments required by subdivisions (b) and (c) to a school district shall be credited to the state's matching share required by section 7 of the national school lunch act, 42 U.S.C. 1756.

(e) Designate a reimbursable cost per breakfast equal to the lesser of the school district's actual costs or 100% of the cost of a breakfast served by an efficiently operated breakfast program, as determined by the department. The department shall allocate, and the legislature shall appropriate as part of the annual department appropriations and allocations, all reasonable and necessary direct and indirect costs of an efficiently operated breakfast program or the school district's actual costs, whichever is less, incurred by a school district in the operation of a breakfast program, to any extent that they exceed state and federal breakfast subsidies and permissible pupil breakfast fees. These costs shall be reimbursed on a per-breakfast-served basis and may include, but shall not be limited to, compensation for needed additional personnel and supervision of both

a school year in which the total amount of reimbursements underment, are not appropriated, the requirements of section 1272a(2)

History: Add. 1977, Act 43, Imd. Eff. June 29, 1977;³/₄ Am. 1980, Act 508, Imd. Eff. Jan. 22, 1981;³/₄ Am. 1981, Act 87, Imd. Eff. July 2, 1981;³/₄ Am. 1982, Act 306, Imd. Eff. Oct. 13, 1982;³/₄ Am. 1993, Act 335, Imd. Eff. Dec. 31, 1993.

Popular name: Act 451

380.1273 Meal program.

Sec. 1273. The board may enter into contracts to provide material, personnel, and equipment necessary to establish and operate a low cost, nutritionally sound meal program for persons 60 years of age or older and their spouses. Receipts and expenditures shall be maintained separate from the school general fund and food service accounts to insure the district's recovery of total program cost through a nominal charge to participants, through federal, state, local, or private grants or reimbursement, or a combination thereof.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

Popular name: Act 451

380.1274 Procurement of supplies, materials, and equipment; written policies; competitive bids; approval of purchase; adjustment of maximum amount; local policy giving preference to Michigan-based business; items purchased through cooperative bulk purchasing program; acquisition of equipment; payment; purchase of heating and cooking equipment; "Michigan-based business" defined.

Sec. 1274. (1) The board of a school district or board of directors of a public school academy shall adopt written policies governing the procurement of supplies, materials, and equipment.

(2) Except as otherwise provided in subsection (4) or (5), a school district or public school academy shall not purchase an item or a group of items in a single transaction costing \$20,959.00 or more unless competitive bids are obtained for those items and the purchase of those items is approved by the school board or board of directors. The maximum amount specified in this subsection shall be adjusted each year by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar.

(3) The board of a school district or board of directors of a public school academy may adopt and implement a local policy that gives a preference to a Michigan-based business in awarding a contract under this section. The policy may provide for a preference based on the status of the primary contractor as a Michigan-based business or based on the status of 1 or more subcontractors of the primary contractor as Michigan-based businesses, or both. A policy adopted under this subsection shall be consistent with federal statutes and regulations and shall not be applied to a contract that is to be paid with federal funds. Upon request by a school district or public school academy that has adopted and implemented a policy described in this subsection, the department of treasury shall disclose to that school district or public school academy verifying information as described in section 268(3) of the management and budget act, 1984 PA 431, MCL 18.1268. The adoption, implementation, or application of a policy described in this subsection, or a decision not to adopt, implement, or apply such a policy, does not create a cause of action.

(4) A school district or public school academy is not required to obtain competitive bids for items purchased through the cooperative bulk purchasing program operated by the department of management and budget under section 263(3) of the management and budget act, 1984 PA 431, MCL 18.1263.

(5) A school district or public school academy is not required to obtain competitive bids for purchasing food unless the food is purchased in a single transaction costing \$100,000.00 or more.

(6) The board of a school district or local act school district or board of directors of a public school academy may acquire by purchase, lease, or rental, with or without option to purchase, equipment necessary for the operation of the school program, including, but not limited to, heating, water heating, and cooking equipment for school buildings, and may pay for the equipment from operating funds of the district or public school academy. Heating and cooking equipment may be purchased on a title retaining contract or other form of agreement creating a security interest and pledging in payment money in the general fund or funds received from state school aid. The contracts may extend for not more than 10 years.

(7) As used in this section, "Michigan-based business" means a business that would qualify for a preference in a procurement contract with this state as determined under section 268 of the management and

Popular name: Act 451

380.1274a Energy conservation improvements; payment; bond; contract terms; removal or treatment of asbestos or other material injurious to health; issuance of bonds; competitive bidding requirements; reports; forms; definitions.

Sec. 1274a. (1) The board of a school district, intermediate school district, or local act school district may contract with a qualified provider for energy conservation improvements to school facilities. These improvements may be paid from operating funds of the school district or from the proceeds of bonds or notes issued for energy conservation improvements, or the board or intermediate school board may enter into 1 or more energy saving performance contracts. These contracts may contain a written financial guarantee providing that the costs of improvements will be paid only if the energy savings are sufficient to cover them. Energy conservation improvements may include, but are not limited to, building envelope improvements; heating and cooling upgrades; lighting retrofits; installing or upgrading an energy management system; motor, pump, or fan replacements; domestic water use reductions; and upgrading other energy consuming equipment or appliances.

(2) A school board or intermediate school board that contracts for energy conservation improvements under subsection (1) may require the qualified provider to furnish a bond that guarantees energy cost savings for a specified period of time.

(3) If a school board or intermediate school board enters into an energy saving performance contract under this section, all of the following apply:

(a) The bids for the contract shall provide a detailed breakdown of the energy performance savings to be derived each year and for the duration of the energy saving performance contract, including at least all of the following:

(i) A description of the guaranteed energy use savings and tasks to be performed under the energy saving performance contract.

(ii) The combined total net cost of all of the energy conservation measures in the project.

(iii) The projected energy savings and operating and maintenance cost savings resulting from the project.

(iv) The useful life of each energy conservation measure.

(v) The simple payback period.

(b) The qualified provider shall certify that measurement and verification techniques for determining cost savings will be performed in accordance with the protocols published in January 2001 by the international performance measurement and verification protocol inc.

(4) The board of a school district, intermediate school district, or local act school district may provide for the removal or treatment of asbestos or other material injurious to health for school facilities and may pay for the improvements from operating funds of the school district or from the proceeds of bonds or notes issued for that purpose.

(5) Issuance of bonds for the purposes authorized by this section shall be considered as issued for capital expenditures for all purposes including section 16 of article IX of the state constitution of 1963.

(6) Energy conservation improvements or substance removal or treatment authorized by this section is subject to the competitive bidding requirements of section 1267.

(7) If energy conservation improvements are made by a school district, local act school district, or intermediate school district as provided in this section, the school board or intermediate school board shall report the following information to the state treasurer within 60 days after the completion of the improvements:

(a) Name of each facility to which an improvement was made and a description of the conservation improvements.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(8) If energy conservation improvements are made as provided in this section, the school board or intermediate school board shall report to the state treasurer by July 1 of each of the 5 years after the improvements are completed the actual annual energy consumption of each facility to which improvements were made. The forms for the reports required by this section shall be furnished by the state treasurer.

t” means an agreement for the evaluation, recommendation, and assures including, but not limited to, an energy audit or detailed

energy study; the design, installation, operation, and maintenance of 1 or more energy conservation measures; energy management services; and an energy savings guarantee.

(b) “Qualified provider” means an individual or a business entity that is experienced in performing design, analysis, and installation of energy conservation improvements and facility energy management measures and that will provide these services under the contract with a guarantee or on a performance basis.

History: Add. 1982, Act 431, Imd. Eff. Dec. 29, 1982;¾ Am. 1985, Act 22, Imd. Eff. May 20, 1985;¾ Am. 1990, Act 227, Imd. Eff. Oct. 8, 1990;¾ Am. 2003, Act 255, Imd. Eff. Dec. 29, 2003.

Compiler's note: For transfer of functions relating to energy policy from the Energy Administration, Department of Commerce, to the Public Service Commission, Department of Commerce, see E.R.O. No. 1986-4, compiled at MCL 460.901 of the Michigan Compiled Laws.

For transfer of powers and duties of the public service commission pertaining to energy conservation improvement reports from the public service commission to the state treasurer, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 451

380.1274b Purchase, storage, or use of free flowing elemental mercury or instrument that contains mercury; restrictions; absence of mercury-free alternative for instrument; disposal of mercury and instruments containing mercury.

Sec. 1274b. (1) Except as otherwise provided in subsection (2), the board of a school district, local act school district, or intermediate school district; governing board of a nonpublic school; or board of directors of a public school academy shall ensure that after December 31, 2004 the school district, intermediate school district, nonpublic school, or public school academy does not purchase, store, or use free flowing elemental mercury for any experiment, display, or other purpose and does not purchase, store, or use an instrument that contains mercury, including, but not limited to, a thermometer, barometer, or sphygmomanometer, or manometer containing mercury.

(2) After December 31, 2004, if no reasonably acceptable, mercury-free alternative exists for an instrument used by the school district, intermediate school district, nonpublic school, or public school academy, then the school district, intermediate school district, nonpublic school, or public school academy may use the instrument that contains the lowest mercury content available on the market.

(3) The board of a school district, local act school district, or intermediate school district; governing board of a nonpublic school; or board of directors of a public school academy shall ensure that the school district, intermediate school district, nonpublic school, or public school academy disposes of mercury and instruments containing mercury in accordance with applicable state and federal law.

History: Add. 2000, Act 376, Imd. Eff. Jan. 2, 2001.

Popular name: Act 451

380.1275 Repealed. 1995, Act 289, Eff. July 1, 1996.

Compiler's note: The repealed section pertained to counseling, information, and services pertaining to controlled substances and alcoholism.

Popular name: Act 451

380.1276 Pedestrian overpasses; acquisition or construction; payment of costs; contracts; approval.

Sec. 1276. The board of a school district or a local act school district may acquire by purchase or lease or may construct pedestrian overpasses for the safe conduct of pupils enroute to and from school. The costs may be paid by the school district and by the highway authority having jurisdiction of the public highway in amounts agreed upon by the board and the highway authority. The board may pay its share out of the general funds of the school district, or may purchase the overpasses on title retaining contracts. The contracts shall not be entered into or issued for more than 10 years. A pedestrian overpass shall not be constructed over a public highway without the prior approval of the highway authorities having jurisdiction over the highway.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

Popular name: Act 451

380.1277 School improvement plan.

Sec. 1277. (1) Considering criteria established by the state board, in addition to the requirements specified in section 1280 for accreditation under that section, if the board of a school district wants all of the schools of the school district to be accredited under section 1280, the board shall adopt and implement and, not later than