

CHAPTER 1075

COMPETITIVE BIDDING — PRIVATE PARTY CONSTRUCTION OF GOVERNMENT LEASE-PURCHASED PROPERTY

H.F. 2253

AN ACT regarding competitive bidding requirements for construction by a private party of property to be lease-purchased by certain government entities and including effective date and applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. [Section 8.46](#), Code 2018, is amended by adding the following new subsection:
NEW SUBSECTION. 4. A contract for construction by a private party of property to be lease-purchased by a state agency is a contract for a public improvement as defined in [section 26.2](#). If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction exceeds the competitive bid threshold in [section 26.3](#), the state agency shall comply with the competitive bidding requirements of [section 26.3](#).

Sec. 2. [Section 26.2, subsection 3](#), Code 2018, is amended to read as follows:

3. *a.* “*Public improvement*” means a building or construction work which is constructed under the control of a governmental entity and is paid for which either of the following applies:

(1) Has been paid for in whole or in part with funds of the governmental entity, including.

(2) A commitment has been made prior to construction by the governmental entity to pay for the building or construction work in whole or in part with funds of the governmental entity.

b. “*Public improvement*” includes a building or improvement constructed or operated jointly with any other public or private agency, but excluding excludes urban renewal demolition and low-rent housing projects, industrial aid projects authorized under [chapter 419](#), emergency work or repair or maintenance work performed by employees of a governmental entity, and excluding excludes a highway, bridge, or culvert project, and excluding excludes construction or repair or maintenance work performed for a city utility under [chapter 388](#) by its employees or performed for a rural water district under [chapter 357A](#) by its employees.

Sec. 3. [Section 26.2](#), Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 5. “*Under the control of a governmental entity*” includes determining the construction work to be performed or establishing the specifications for a building or construction work to be occupied by the governmental entity.

Sec. 4. [Section 260C.38, subsection 3](#), Code 2018, is amended to read as follows:

3. ~~Before~~ Subject to [subsection 4](#), before entering into a lease agreement with a purchase option for a building to be constructed, or placed, upon real estate owned by the community college, the board shall first adopt plans and specifications for the proposed building which it considers suitable for the intended use, and the board shall also adopt the proposed terms of the lease agreement and purchase option. The board shall invite bids, by advertisement published once each week for two consecutive weeks in the county where the building is to be located. The lease agreement shall be awarded to the lowest responsible bidder, or the board may reject all bids and readvertise for new bids.

Sec. 5. [Section 260C.38](#), Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A contract for construction by a private party of property to be lease-purchased by a community college is a contract for a public improvement as defined in [section 26.2](#). If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction exceeds the competitive bid threshold in [section 26.3](#), the board shall comply with the competitive bidding requirements of [section 26.3](#).

Sec. 6. [Section 262.34, subsection 1](#), Code 2018, is amended to read as follows:

1. When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents, including construction, renovation, or repairs by a private party of a property to be lease-purchased by the board exceeds one hundred thousand dollars, the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by a method as the board may determine. All plans and specifications for repairs or construction, together with bids on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under [this section](#) shall be accompanied by a deposit of money, a certified check, or a credit union certified share draft in an amount as the board may prescribe.

Sec. 7. [Section 278.1, subsection 2](#), paragraph b, Code 2018, is amended to read as follows:

b. Before Subject to paragraph “c”, before entering into a rental or lease-purchase option contract, authorized by the electors, the board shall first adopt plans and specifications for a building or buildings which it considers suitable for the intended use and also adopt a form of rental or lease-purchase option contract. The board shall then invite bids thereon, by advertisement published once each week for two consecutive weeks, in a newspaper published in the county in which the building or buildings are to be located, and the rental or lease-purchase option contract shall be awarded to the lowest responsible bidder, but the board may reject any and all bids and advertise for new bids.

Sec. 8. [Section 278.1, subsection 2](#), Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A contract for construction by a private party of property to be lease-purchased by a public school corporation is a contract for a public improvement as defined in [section 26.2](#). If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction exceeds the competitive bid threshold in [section 26.3](#), the board shall comply with the competitive bidding requirements of [section 26.3](#).

Sec. 9. [Section 298.3, subsection 1](#), paragraph j, Code 2018, is amended to read as follows:

j. The purchase of buildings or lease-purchase option agreements for school buildings. However, a contract for construction by a private party of property to be lease-purchased by a public school corporation is a contract for a public improvement as defined in [section 26.2](#). If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction in excess of¹ the competitive bid threshold in [section 26.3](#), the board of directors shall comply with the competitive bidding requirements of [section 26.3](#).

Sec. 10. [Section 331.301, subsection 10](#), paragraph i, Code 2018, is amended to read as follows:

i. ~~A contract for construction by a private party of property to be leased or lease-purchased by a county is not a contract for a public improvement under and is subject to [section 331.341, subsection 1](#). However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a county, with the county's obligation to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the county is a public improvement and is subject to [section 331.341, subsection 1](#).~~

¹ See chapter 1172, §27 herein

Sec. 11. [Section 364.4, subsection 4](#), paragraph i, Code 2018, is amended to read as follows:

i. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under [section 26.2, subsection 3](#), except for purposes of [section 26.12](#). However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligations to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is subject to [chapter 26](#). If the estimated cost of the property to be lease-purchased that is renovated, repaired, or involves new construction exceeds the competitive bid threshold set in ² [26.3](#), the city shall comply with the competitive bidding requirements of [section 26.3](#).

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 13. APPLICABILITY. This Act applies to lease-purchase contracts entered into on or after the effective date of this Act.³

Approved April 4, 2018

² See chapter 1172, §31 herein

³ See chapter 1172, §71 herein