

Senate Study Bill 3110 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON SMITH)

A BILL FOR

1 An Act regarding competitive bidding requirements for
2 construction by a private party of property to be leased or
3 lease-purchased by certain government entities and including
4 effective date and applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8.46, Code 2018, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 4. A contract for construction by a private
4 party of property to be leased or lease-purchased by a state
5 agency is a contract for a public improvement as defined in
6 section 26.2. If the estimated cost of the property to be
7 leased or lease-purchased that is renovated, repaired, or
8 involves new construction exceeds the competitive bid threshold
9 in section 26.3, the state agency shall comply with the
10 competitive bidding requirements of section 26.3.

11 Sec. 2. Section 26.2, subsection 3, Code 2018, is amended
12 to read as follows:

13 3. "*Public improvement*" means a building or construction
14 work which is constructed under the control of a governmental
15 entity and is paid for in whole or in part with funds of the
16 governmental entity or for which a commitment has been made
17 prior to construction by the governmental entity to pay for the
18 building or construction work in whole or in part with funds of
19 the governmental entity, including a building or improvement
20 constructed or operated jointly with any other public or
21 private agency, but excluding urban renewal demolition and
22 low-rent housing projects, industrial aid projects authorized
23 under [chapter 419](#), emergency work or repair or maintenance
24 work performed by employees of a governmental entity, and
25 excluding a highway, bridge, or culvert project, and excluding
26 construction or repair or maintenance work performed for a city
27 utility under [chapter 388](#) by its employees or performed for a
28 rural water district under [chapter 357A](#) by its employees.

29 Sec. 3. Section 26.2, Code 2018, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 5. "*Under the control of a governmental*
32 *entity*" includes determining the construction work to be
33 performed or establishing the specifications for a building or
34 construction work to be occupied by the governmental entity.

35 Sec. 4. Section 260C.38, subsection 3, Code 2018, is amended

1 to read as follows:

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

14 Sec. 5. Section 260C.38, Code 2018, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 4. A contract for construction by a
17 private party of property to be leased or lease-purchased by
18 a community college is a contract for a public improvement as
19 defined in section 26.2. If the estimated cost of the property
20 to be leased or lease-purchased that is renovated, repaired, or
21 involves new construction exceeds the competitive bid threshold
22 in section 26.3, the board shall comply with the competitive
23 bidding requirements of section 26.3.

24 Sec. 6. Section 262.34, subsection 1, Code 2018, is amended
25 to read as follows:

26 1. When the estimated cost of construction, repairs,
27 or improvement of buildings or grounds under charge of the
28 state board of regents, including construction, renovation,
29 or repairs by a private party of a property to be leased or
30 lease-purchased by the board exceeds one hundred thousand
31 dollars, the board shall advertise for bids for the
32 contemplated improvement or construction and shall let the work
33 to the lowest responsible bidder. However, if in the judgment
34 of the board bids received are not acceptable, the board may
35 reject all bids and proceed with the construction, repair, or

1 improvement by a method as the board may determine. All plans
2 and specifications for repairs or construction, together with
3 bids on the plans or specifications, shall be filed by the
4 board and be open for public inspection. All bids submitted
5 under this section shall be accompanied by a deposit of money,
6 a certified check, or a credit union certified share draft in
7 an amount as the board may prescribe.

8 Sec. 7. Section 278.1, subsection 2, paragraph b, Code 2018,
9 is amended to read as follows:

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

22 Sec. 8. Section 278.1, subsection 2, Code 2018, is amended
23 by adding the following new paragraph:

24 NEW PARAGRAPH. c. A contract for construction by a private
25 party of property to be leased or lease-purchased by a public
26 school corporation is a contract for a public improvement as
27 defined in section 26.2. If the estimated cost of the property
28 to be leased or lease-purchased that is renovated, repaired, or
29 involves new construction exceeds the competitive bid threshold
30 in section 26.3, the board shall comply with the competitive
31 bidding requirements of section 26.3.

32 Sec. 9. Section 298.3, subsection 1, paragraph j, Code 2018,
33 is amended to read as follows:

34 j. The purchase of buildings or lease-purchase option
35 agreements for school buildings. However, a contract for

1 construction by a private party of property to be leased or
2 lease-purchased by a public school corporation is a contract
3 for a public improvement as defined in section 26.2. If the
4 estimated cost of the property to be leased or lease-purchased
5 that is renovated, repaired, or involves new construction in
6 excess of the competitive bid threshold in section 26.3, the
7 board of directors shall comply with the competitive bidding
8 requirements of section 26.3.

9 Sec. 10. Section 331.301, subsection 10, paragraph i, Code
10 2018, is amended to read as follows:

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

21 Sec. 11. Section 364.4, subsection 4, paragraph i, Code
22 2018, is amended to read as follows:

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

1 constructions exceeds \$100,000.

2 Currently, a contract for construction by a private party of
3 a property to be leased or lease-purchased by a county is not a
4 contract for public improvement under Code section 331.341(1),
5 unless a lease-purchase contract is funded in advance by means
6 of the lessor depositing moneys to be administered by the
7 county, with the county's obligation to make rent payments
8 commencing with its receipt of moneys.

9 Under the bill all lease and lease-purchase contracts by a
10 county are contracts for public improvements and are subject to
11 Code section 331.341. By operation of law, such contracts that
12 exceed the threshold amount must comply with the requirements
13 of Code chapter 26.

14 Under current law, a contract for construction by a private
15 party of a property to be leased or lease-purchased by a
16 city is not a contract for public improvement under Code
17 section 26.2, except for purposes of Code section 26.12. A
18 lease-purchase contract funded in advance by means of the
19 lessor depositing moneys to be administered by the city, with
20 the city's obligation to make rent payments commencing with its
21 receipt of moneys, is also subject to Code chapter 26.

22 The bill makes this type of contract a contract for public
23 improvement under Code section 26.2. A city must therefore
24 take competitive bids for renovations, repairs, or new
25 construction on a property to be leased or lease-purchased that
26 exceeds the competitive bid threshold in Code section 26.3.

27 The bill is effective upon enactment and applies to leases
28 and lease-purchase contracts entered into on or after the
29 effective date of the bill.