

Senate File 482 - Introduced

SENATE FILE 482

BY BOULTON

A BILL FOR

1 An Act relating to competitive bidding requirements for
2 construction by a private party of property to be
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, subsection 4, Code 2019, is amended
2 by striking the subsection.

3 Sec. 2. Section 26.2, subsection 3, paragraph a, Code 2019,
4 is amended to read as follows:

5 a. "Public improvement" means a building or construction
6 work ~~which~~ that is constructed under the control of a
7 governmental entity and ~~for which either of the following~~
8 ~~applies:~~

9 (1) ~~Has been~~ is paid for in whole or in part with funds of
10 the governmental entity.

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

14 Sec. 3. Section 26.2, subsection 5, Code 2019, is amended by
15 striking the subsection.

16 Sec. 4. Section 260C.38, subsection 3, Code 2019, is amended
17 to read as follows:

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

30 Sec. 5. Section 260C.38, subsection 4, Code 2019, is amended
31 by striking the subsection.

32 Sec. 6. Section 262.34, subsection 1, Code 2019, is amended
33 to read as follows:

34 1. When the estimated cost of construction, repairs, or
35 improvement of buildings or grounds under charge of the state

1 board of regents, ~~including construction, renovation, or~~
2 ~~repairs by a private party of a property to be lease-purchased~~
3 ~~by the board~~ exceeds one hundred thousand dollars, the board
4 shall advertise for bids for the contemplated improvement or
5 construction and shall let the work to the lowest responsible
6 bidder. However, if in the judgment of the board bids received
7 are not acceptable, the board may reject all bids and proceed
8 with the construction, repair, or improvement by a method as
9 the board may determine. All plans and specifications for
10 repairs or construction, together with bids on the plans or
11 specifications, shall be filed by the board and be open for
12 public inspection. All bids submitted under **this section** shall
13 be accompanied by a deposit of money, a certified check, or a
14 credit union certified share draft in an amount as the board
15 may prescribe.

16 Sec. 7. Section 278.1, subsection 2, paragraph b, Code 2019,
17 is amended to read as follows:

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

30 Sec. 8. Section 278.1, subsection 2, paragraph c, Code 2019,
31 is amended by striking the paragraph.

32 Sec. 9. Section 298.3, subsection 1, paragraph j, Code 2019,
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~~

1 ~~for construction by a private party of property to be~~
2 ~~lease-purchased by a public school corporation is a contract~~
3 ~~for a public improvement as defined in [section 26.2](#). If~~
4 ~~the estimated cost of the property to be lease-purchased~~
5 ~~that is renovated, repaired, or involves new construction~~
6 ~~exceeds 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 2019, 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 ~~and is subject to~~ under
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 2019, 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. ~~If the estimated cost of the property to be~~
27 ~~lease-purchased that is renovated, repaired, or involves~~
28 ~~new construction exceeds the competitive bid threshold set~~
29 ~~in [section 26.3](#), the city shall comply with the competitive~~
30 ~~bidding requirements of [section 26.3](#), except for purposes of~~
31 [section 26.12](#). However, if a lease-purchase contract is funded
32 in advance by means of the lessor depositing moneys to be
33 administered by a city, with the city's obligation to make rent
34 payments commencing with its receipt of moneys, a contract for
35 construction of the property in question awarded by the city is

1 subject to chapter 26.

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

4 Sec. 13. APPLICABILITY. This Act applies to lease-purchase
5 agreements entered into on or after the effective date of this
6 Act.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to competitive bidding requirements for
11 construction on properties that certain government entities
12 will lease or lease-purchase.

13 Code chapter 26 (public construction bidding) imposes public
14 bidding requirements on certain public improvements that are
15 estimated to cost above a threshold amount.

16 Under current law, a contract for construction by a private
17 party of a property to be lease-purchased by the state of Iowa,
18 a community college, a public school corporation, or a city is
19 a contract for a public improvement under Code section 26.2.

20 Under current law, all lease-purchase contracts by a county
21 are contracts for public improvements and are subject to Code
22 section 331.341. By operation of law, such contracts that
23 exceed the threshold amount must comply with the requirements
24 of Code chapter 26. The state of Iowa, a community college, a
25 public school corporation, a city, or a county must therefore
26 take competitive bids pursuant to the process set forth in Code
27 chapter 26 for renovations, repairs, or new construction on a
28 property to be lease-purchased that exceeds the competitive
29 bid threshold set in Code section 26.3. In addition, current
30 law states that the construction, renovation, or repairs by a
31 private party of property to be lease-purchased by the board
32 of regents is subject to competitive bidding requirements when
33 the cost of the construction, renovation, or repairs exceeds
34 \$100,000.

35 Under the bill, a contract for construction by a private

1 party of property to be lease-purchased by the state of Iowa,
2 a community college, or a public school corporation is not
3 considered a contract for a public improvement for purposes
4 of Code chapter 26. The bill also removes the construction,
5 renovation, or repairs by a private party of property to be
6 lease-purchased by the state board of regents from competitive
7 bidding requirements.

8 Under the bill, a contract for construction by a private
9 party of a property to be lease-purchased by a county is not
10 a contract for public improvement under Code section 331.341,
11 subsection 1, unless a lease-purchase contract is funded
12 in advance by means of the lessor depositing moneys to be
13 administered by the county, with the county's obligation to
14 make rent payments commencing with its receipt of moneys.
15 Additionally, a contract for construction by a private party
16 of a property to be lease-purchased by a city is not a contract
17 for public improvement under Code section 26.2, except for
18 purposes of Code section 26.12. However, a lease-purchase
19 contract funded in advance by means of the lessor depositing
20 moneys to be administered by the city, with the city's
21 obligation to make rent payments commencing with its receipt of
22 moneys, is subject to Code chapter 26.

23 The bill is effective upon enactment and applies to
24 lease-purchase contracts entered into on or after the effective
25 date of the bill.