

Senate File 142 - Introduced

SENATE FILE 142

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 2021, is amended
2 by striking the subsection.

3 Sec. 2. Section 26.2, subsection 3, paragraph a, Code 2021,
4 is amended to read as follows:

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

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

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

13 Sec. 3. Section 26.2, subsection 5, Code 2021, is amended by
14 striking the subsection.

15 Sec. 4. Section 260C.38, subsection 3, Code 2021, is amended
16 to read as follows:

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

29 Sec. 5. Section 260C.38, subsection 4, Code 2021, is amended
30 by striking the subsection.

31 Sec. 6. Section 262.34, subsection 1, Code 2021, is amended
32 to read as follows:

33 1. When the estimated cost of construction, repairs, or
34 improvement of buildings or grounds under charge of the state
35 board of regents, ~~including construction, renovation, or~~

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

15 Sec. 7. Section 278.1, subsection 2, paragraph b, Code 2021,
16 is amended to read as follows:

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

29 Sec. 8. Section 278.1, subsection 2, paragraph c, Code 2021,
30 is amended by striking the paragraph.

31 Sec. 9. Section 298.3, subsection 1, paragraph j, Code 2021,
32 is amended to read as follows:

33 ~~j. The purchase of buildings or lease-purchase option~~
34 ~~agreements for school buildings. However, a contract~~
35 ~~for construction by a private party of property to be~~

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

8 Sec. 10. Section 331.301, subsection 10, paragraph i, Code
9 2021, is amended to read as follows:

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

20 Sec. 11. Section 364.4, subsection 4, paragraph i, Code
21 2021, is amended to read as follows:

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

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

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

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