

House File 2253 - Reprinted

HOUSE FILE 2253
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO HSB 568)

(As Amended and Passed by the House March 6, 2018)

A BILL FOR

1 An Act regarding 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, Code 2018, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 4. A contract for construction by a
4 private party of property to be 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 lease-purchased that is renovated, repaired, or involves new
8 construction exceeds the competitive bid threshold in section
9 26.3, the state agency shall comply with the competitive
10 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~~ funded under chapter 403, industrial
23 aid projects authorized under [chapter 419](#), emergency work
24 or repair or maintenance work performed by employees of a
25 governmental entity, and excluding a highway, bridge, or
26 culvert project, and excluding construction or repair or
27 maintenance work performed for a city utility under [chapter 388](#)
28 by its employees or performed for a rural water district under
29 chapter 357A by its employees.

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

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

1 Sec. 4. Section 260C.38, subsection 3, Code 2018, is amended
2 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

35 *j.* The purchase of buildings or lease-purchase option

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

10 Sec. 10. Section 331.301, subsection 10, paragraph i, Code
11 2018, is amended to read as follows:

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

22 Sec. 11. Section 364.4, subsection 4, paragraph i, Code
23 2018, is amended to read as follows:

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

1 the city shall comply with the competitive bidding requirements
2 of section 26.3.

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

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