

HOUSE BILL 644

Introduced by Brown, et al.

2/17	Introduced
2/17	Referred to Local Government
2/17	First Reading
2/17	Fiscal Note Requested
2/18	Hearing
2/19	Committee Report--Bill Passed
2/22	2nd Reading Passed as Amended
2/23	Fiscal Note Received
2/24	3rd Reading Passed
	Transmitted to Senate
3/01	First Reading
3/01	Referred to Local Government
3/02	Fiscal Note Printed
3/23	Hearing
3/26	Tabled in Committee

1 House BILL NO. 644
2 INTRODUCED BY Don Brown
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE STATE,
5 COUNTIES, CITIES, AND TOWNS TO CONSTRUCT PUBLIC WORKS BY THE
6 LEASE-PURCHASE METHOD OF FINANCING; ESTABLISHING PROCEDURES
7 FOR AWARDDING THE LEASE-PURCHASE CONTRACTS; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Lease-purchase financing of
12 public construction projects -- authority. In addition to
13 currently authorized methods of contracting public works,
14 the state, as authorized by the legislature, or a county,
15 city, or town, as authorized by its governing body, may, for
16 a period not to exceed 20 years, lease a building,
17 structure, or other improvement for any authorized public
18 purpose pursuant to a contract that provides for the
19 construction of the building, structure, or other
20 improvement under a lease-purchase plan. In conjunction with
21 the plan, the state, county, city, or town may grant leases,
22 easements, or licenses for lands under the control of the
23 state, county, city, or town for a period not to exceed 20
24 years. A lease must comply with the provisions of [sections
25 2 through 4] and must provide that at the end of the lease

1 period, the building, structure, and related improvements,
2 together with the land on which they are situated, become
3 the property of the state, county, city, or town without
4 cost.

5 NEW SECTION. Section 2. Lease-purchase financing of
6 public construction projects -- procedures for awarding
7 leases. (1) A public agency authorized under [section 1] to
8 acquire a building, structure, or other improvement by a
9 lease-purchase contract shall comply with the following
10 requirements:

11 (a) The public agency shall develop a request for
12 proposals that clearly defines the project program,
13 functional requirements, quality considerations, time
14 requirements for submission of proposals, construction time
15 requirements, financial requirements for bidders, project
16 budget, and proposal evaluation scoring methods, including
17 the relative importance of evaluation factors. A request for
18 proposals may be amended at any time prior to the deadline
19 for the submission for proposals.

20 (b) The public agency shall advertise in at least one
21 issue each week for 3 consecutive weeks in two newspapers
22 published in the state, one of which must be published at
23 the seat of government and the other in the county where the
24 work is to be performed, if different. The advertisement
25 must call for the submission of letters of interest and

1 eventual submission of proposals and must state the time and
2 place for reply.

3 (c) To respond to the newspaper advertisement, a firm
4 shall respond on or before the time and date designated in
5 the advertisement. The response must take the form of a
6 one-page letter of interest that must provide the firm's
7 name and address.

8 (d) All timely letters of interest must be opened at
9 the same time, publicly read, and kept on file by the public
10 agency. A firm that fails to meet the deadline is barred
11 from the procurement process.

12 (e) The public agency shall send a letter to each of
13 the firms that submitted a letter of interest under
14 subsection (1)(c), inviting each firm to submit a written
15 proposal, on a form created by the public agency, on or
16 before a specified time and date. Proposals must respond to
17 all of the criteria set forth in the request for proposal.
18 Each proposal must show a savings by use of the
19 lease-purchase plan over conventional contracting and
20 financing methods. A firm that fails to submit a written
21 proposal, on the form supplied by the agency, on or before
22 the deadline is barred from further involvement in the
23 procurement process.

24 (f) After the request for proposals has been mailed and
25 before written proposals are submitted, the public agency

1 may contact the firms and may hold any meetings,
2 discussions, or negotiations considered appropriate.

3 (g) The public agency shall keep the written proposals
4 confidential until the contract is awarded.

5 (h) The public agency shall evaluate the written
6 proposals and score them numerically to determine the lowest
7 cost proposal based on total scores. The agency shall then
8 select, but not rank, the three most qualified firms based
9 upon the evaluation factors set forth in the request for
10 proposals.

11 (i) The public agency shall send a letter to each firm
12 that responded to the request for proposals, informing the
13 firm of the three finalists and the procedure that will be
14 followed in the awarding of the contract.

15 (j) The public agency shall separately interview the
16 three finalists. Each interview may be attended only by
17 representatives of the finalists and by public agency
18 personnel. The interviews are confidential. Following the
19 interviews, the public agency shall rank the finalists based
20 on the weighted evaluation factors in the request for
21 proposals and:

22 (i) award the contract to the top-ranked finalist; or

23 (ii) request best-and-final offers.

24 (k) The written request for best-and-final offers must
25 state a time and date by which all best-and-final offers

1 must be received. A firm that fails to submit a
2 best-and-final offer may not be awarded the contract. The
3 public agency shall rank the best-and-final offers based on
4 weighted evaluation factors in the request for proposals and
5 award the contract to the top-ranked firm.

6 (2) Contractors, architects, engineers, and other
7 parties considered necessary to complete the project may
8 contract together, as provided by law, to pursue the
9 project.

10 (3) The public agency shall enter into a lease-purchase
11 contract with the firm awarded the contract under subsection
12 (1). The contract must require the lessor to comply with all
13 applicable state, federal, and local laws in the
14 construction of the building, structure, or improvements,
15 including the bonding provisions in Title 18, chapter 2,
16 part 2, and the requirements for the standard prevailing
17 rate of wages in Title 18, chapter 2, part 4.

18 NEW SECTION. Section 3. Lease purchase contracts --
19 building and construction code requirements. A building,
20 structure, or improvement constructed and leased to the
21 public agency under a lease-purchase contract pursuant to
22 [section 2] must be constructed:

23 (1) in accordance with all applicable state and
24 national safety, building, and construction code
25 requirements; and

1 (2) to last, at a minimum, for a period of 30 years.

2 NEW SECTION. Section 4. Lease purchase contracts
3 involving private land. When a lease-purchase contract is
4 awarded under [section 2] to a firm that owns the land upon
5 which the building, structure, or improvement is to be
6 built, the public agency must be granted an option to
7 purchase the leased buildings, land, and any appurtenant
8 facilities. The option price to be paid may not exceed fair
9 market value as of the time the option is exercised, as
10 determined by a competent and qualified real estate
11 appraiser selected by mutual agreement of the parties.
12 However, the option price may not be less than a sum equal
13 to the remaining balance of any mortgage lien encumbering
14 the property and securing the repayment of money advanced to
15 the owner for the original construction of the building,
16 plus an amount not to exceed 10% of the mortgage balance.

17 NEW SECTION. Section 5. Applicability. With respect to
18 state construction, [this act] applies to all buildings,
19 structures, and improvements that may be authorized by the
20 legislature during the 53rd legislative session and that may
21 be authorized in future sessions.

22 NEW SECTION. Section 6. Effective date. [This act] is
23 effective on passage and approval.

-End-

Form BD-15

DESCRIPTION OF PROPOSED LEGISLATION:

ASSUMPTIONS :

- FISCAL IMPACT:**

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Dave Lueb 2-23-93

DAVE BROWN, PRIMARY SPONSOR 3/2/93
DATE

Fiscal Note for HB0644, as introduced

HB 644

APPROVED BY COMM.
ON LOCAL GOVERNMENT

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2 INTRODUCED BY Dave Brown
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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE STATE,
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16 a period not to exceed 20 years, lease a building,
17 structure, or other improvement for any authorized public
18 purpose pursuant to a contract that provides for the
19 construction of the building, structure, or other
20 improvement under a lease-purchase plan. In conjunction with
21 the plan, the state, county, city, or town may grant leases,
22 easements, or licenses for lands under the control of the
23 state, county, city, or town for a period not to exceed 20
24 years. A lease must comply with the provisions of [sections
25 2 through 4] and must provide that at the end of the lease

1 period, the building, structure, and related improvements,
2 together with the land on which they are situated, become
3 the property of the state, county, city, or town without
4 cost.

5 NEW SECTION. **Section 2.** Lease-purchase financing of
6 public construction projects -- procedures for awarding
7 leases. (1) A public agency authorized under [section 1] to
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16 budget, and proposal evaluation scoring methods, including
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1 eventual submission of proposals and must state the time and
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4 shall respond on or before the time and date designated in
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7 name and address.

8 (d) All timely letters of interest must be opened at
9 the same time, publicly read, and kept on file by the public
10 agency. A firm that fails to meet the deadline is barred
11 from the procurement process.

12 (e) The public agency shall send a letter to each of
13 the firms that submitted a letter of interest under
14 subsection (1)(c), inviting each firm to submit a written
15 proposal, on a form created by the public agency, on or
16 before a specified time and date. Proposals must respond to
17 all of the criteria set forth in the request for proposal.
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21 proposal, on the form supplied by the agency, on or before
22 the deadline is barred from further involvement in the
23 procurement process.

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25 before written proposals are submitted, the public agency

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16 three finalists. Each interview may be attended only by
17 representatives of the finalists and by public agency
18 personnel. The interviews are confidential. Following the
19 interviews, the public agency shall rank the finalists based
20 on the weighted evaluation factors in the request for
21 proposals and:

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23 (ii) request best-and-final offers.

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25 state a time and date by which all best-and-final offers

1 must be received. A firm that fails to submit a
2 best-and-final offer may not be awarded the contract. The
3 public agency shall rank the best-and-final offers based on
4 weighted evaluation factors in the request for proposals and
5 award the contract to the top-ranked firm.

6 (2) Contractors, architects, engineers, and other
7 parties considered necessary to complete the project may
8 contract together, as provided by law, to pursue the
9 project.

10 (3) The public agency shall enter into a lease-purchase
11 contract with the firm awarded the contract under subsection
12 (1). The contract must require the lessor to comply with all
13 applicable state, federal, and local laws in the
14 construction of the building, structure, or improvements,
15 including the bonding provisions in Title 18, chapter 2,
16 part 2, and the requirements for the standard prevailing
17 rate of wages in Title 18, chapter 2, part 4.

18 NEW SECTION. Section 3. Lease purchase contracts --
19 building and construction code requirements. A building,
20 structure, or improvement constructed and leased to the
21 public agency under a lease-purchase contract pursuant to
22 [section 2] must be constructed:

23 (1) in accordance with all applicable state and
24 national safety, building, and construction code
25 requirements; and

1 (2) to last, at a minimum, for a period of 30 years.

2 NEW SECTION. Section 4. Lease purchase contracts
3 involving private land. When a lease-purchase contract is
4 awarded under [section 2] to a firm that owns the land upon
5 which the building, structure, or improvement is to be
6 built, the public agency must be granted an option to
7 purchase the leased buildings, land, and any appurtenant
8 facilities. The option price to be paid may not exceed fair
9 market value as of the time the option is exercised, as
10 determined by a competent and qualified real estate
11 appraiser selected by mutual agreement of the parties.
12 However, the option price may not be less than a sum equal
13 to the remaining balance of any mortgage lien encumbering
14 the property and securing the repayment of money advanced to
15 the owner for the original construction of the building,
16 plus an amount not to exceed 10% of the mortgage balance.

17 NEW SECTION. Section 5. Applicability. With respect to
18 state construction, [this act] applies to all buildings,
19 structures, and improvements that may be authorized by the
20 legislature during the 53rd legislative session and that may
21 be authorized in future sessions.

22 NEW SECTION. Section 6. Effective date. [This act] is
23 effective on passage and approval.

-End-

HOUSE BILL NO. 644

INTRODUCED BY D. BROWN, FAGG

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE STATE, COUNTIES, CITIES, AND TOWNS TO CONSTRUCT PUBLIC WORKS BY THE LEASE-PURCHASE METHOD OF FINANCING; ESTABLISHING PROCEDURES FOR AWARDDING THE LEASE-PURCHASE CONTRACTS; AMENDING SECTION 15-10-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. SECTION 1. SHORT TITLE. [SECTIONS 1 THROUGH 7 AND 9 THROUGH 12] MAY BE CITED AS THE "LEASE-PURCHASE CONTRACT ACT".

NEW SECTION. SECTION 2. DEFINITIONS. AS USED IN [SECTIONS 1 THROUGH 7 AND 9 THROUGH 12], THE FOLLOWING DEFINITIONS APPLY:

(1) "BUILDING" MEANS ANY STRUCTURE OR OTHER IMPROVEMENT TO REAL ESTATE THAT IS TO BE CONSTRUCTED, LEASED, AND SOLD TO A GOVERNMENTAL UNIT PURSUANT TO A LEASE-PURCHASE CONTRACT. A STRUCTURE OR OTHER IMPROVEMENT TO REAL ESTATE IN EXISTENCE AT THE TIME A LEASE-PURCHASE CONTRACT IS ENTERED INTO MAY NOT BE THE SUBJECT OF THE LEASE-PURCHASE CONTRACT.

(2) "GOVERNMENTAL UNIT" MEANS THE STATE OR ANY COUNTY, CITY, OR TOWN.

(3) "LEASE-PURCHASE CONTRACT" MEANS A CONTRACT ENTERED INTO PURSUANT TO [SECTIONS 1 THROUGH 7 AND 9 THROUGH 12], WHEREBY THE LESSOR LEASES AND SELLS A BUILDING TO A GOVERNMENTAL UNIT.

(4) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY, OR TOWN.

NEW SECTION. SECTION 3. AUTHORITY TO ENTER INTO LEASE-PURCHASE CONTRACTS. ANY GOVERNMENTAL UNIT MAY ACQUIRE BY LEASE-PURCHASE CONTRACT ANY BUILDING AND THE SITE ON WHICH IT IS LOCATED THAT IT IS OTHERWISE AUTHORIZED TO ACQUIRE. A LEASE-PURCHASE CONTRACT MUST INCLUDE:

(1) THE TERM OF THE LEASE-PURCHASE CONTRACT, WHICH MAY NOT EXCEED THE SHORTER OF THE ESTIMATED USEFUL LIFE OF THE BUILDING OR 20 YEARS;

(2) THE AMOUNT OF RENT AND THE DATES WHEN THE RENT IS DUE; AND

(3) AN OPTION FOR THE GOVERNMENTAL UNIT TO PURCHASE THE BUILDING AND BUILDING SITE ON ONE OR MORE DATES BEFORE THE EXPIRATION OF THE LEASE-PURCHASE CONTRACT, WITH SPECIFIED PRICES, TERMS, AND CONDITIONS. AT THE EXPIRATION OF A LEASE-PURCHASE CONTRACT, THE GOVERNMENTAL UNIT SHALL ACQUIRE OWNERSHIP OF THE BUILDING AND BUILDING SITE.

NEW SECTION. SECTION 4. INDEBTEDNESS -- PROCEDURE -- ELECTION. (1) A LEASE-PURCHASE CONTRACT MUST INCLUDE A PROVISION FOR ALLOCATION OF EACH RENT PAYMENT TO PRINCIPAL AND INTEREST, AND THE AGGREGATE AMOUNT PAYABLE BY THE

1 GOVERNMENTAL UNIT CONSTITUTES AN INDEBTEDNESS OF THE
 2 GOVERNMENTAL UNIT. A LOCAL GOVERNMENT MAY NOT ENTER INTO A
 3 LEASE-PURCHASE CONTRACT IF THE INDEBTEDNESS EVIDENCED
 4 THEREBY WOULD CAUSE THE LOCAL GOVERNMENT TO EXCEED ANY
 5 APPLICABLE LIMITATION ON THE LOCAL GOVERNMENT PERTAINING TO
 6 INCURRING INDEBTEDNESS. THE AMOUNT OF INDEBTEDNESS EVIDENCED
 7 BY A LEASE-PURCHASE CONTRACT MUST BE CONSIDERED TAKEN INTO
 8 ACCOUNT IN DETERMINING THE TOTAL AMOUNT OF INDEBTEDNESS THAT
 9 A LOCAL GOVERNMENT MAY INCUR.

10 (2) A LOCAL GOVERNMENT MAY NOT ENTER INTO A
 11 LEASE-PURCHASE CONTRACT WITHOUT SUBMITTING THE QUESTION OF
 12 ENTERING INTO THE LEASE-PURCHASE CONTRACT TO THE REGISTERED
 13 ELECTORS OF THE LOCAL GOVERNMENT IN A GENERAL OR SPECIAL
 14 ELECTION. THE NOTICE OF THE ELECTION MUST STATE THE DATE OF
 15 THE ELECTION, THE HOURS THE POLLS WILL BE OPEN, THE QUESTION
 16 TO BE SUBMITTED TO THE ELECTORS, THE TERM PERIOD OF THE
 17 LEASE-PURCHASE CONTRACT, THE PRINCIPAL AMOUNT OF
 18 INDEBTEDNESS, AND ANY OTHER INFORMATION THAT THE GOVERNING
 19 BODY MAY CONSIDER PROPER. THE QUESTION SUBMITTED TO THE
 20 ELECTORS MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

21 SHALL THE GOVERNING BODY OF THE (NAME OF
 22 THE LOCAL GOVERNMENT) BE AUTHORIZED TO ENTER INTO A
 23 LEASE-PURCHASE CONTRACT FOR THE ACQUISITION OF A BUILDING TO
 24 BE USED (STATE THE GENERAL OR PRIMARY USE FOR
 25 THE BUILDING), FOR A TERM NOT TO EXCEED

1 YEARS, EVIDENCING INDEBTEDNESS TO THE (NAME OF
 2 THE LOCAL GOVERNMENT) IN A PRINCIPAL AMOUNT UP TO \$
 3 _____ ?

4 YES ☐

5 NO ☐

6 (3) IN LIEU OF SUBMITTING ONLY THE QUESTION OF ENTERING
 7 INTO A LEASE-PURCHASE CONTRACT TO THE REGISTERED ELECTORS,
 8 THE GOVERNING BODY MAY SUBMIT TO THE REGISTERED ELECTORS THE
 9 QUESTION OF ISSUING GENERAL OBLIGATION BONDS OR OF ENTERING
 10 INTO A LEASE-PURCHASE CONTRACT, IN WHICH CASE THE QUESTION
 11 TO BE SUBMITTED TO THE REGISTERED ELECTORS MUST BE IN
 12 SUBSTANTIALLY THE FOLLOWING FORM:

13 SHALL THE GOVERNING BODY OF THE (NAME OF
 14 THE LOCAL GOVERNMENT) BE AUTHORIZED TO INCUR DEBT IN A
 15 PRINCIPAL AMOUNT UP TO \$ _____ TO FINANCE THE
 16 ACQUISITION OF A BUILDING TO BE USED FOR (STATE
 17 THE GENERAL OR PRIMARY USE FOR THE BUILDING), WITH THE DEBT
 18 TO BE EVIDENCED EITHER BY GENERAL OBLIGATION BONDS OR BY A
 19 LEASE-PURCHASE CONTRACT, PAYABLE OVER A TERM NOT TO EXCEED
 20 _____ YEARS?

21 YES ☐

22 NO ☐

23 NEW SECTION. SECTION 5. TAX LEVIES FOR PAYMENT OF RENT
 24 UNDER LEASE-PURCHASE CONTRACT. IF A LEASE-PURCHASE CONTRACT
 25 IS APPROVED BY THE REGISTERED ELECTORS IN ACCORDANCE WITH

[SECTION 4], THE AMOUNT OF TAXES REQUIRED TO MAKE RENTAL
PAYMENT UNDER THE LEASE-PURCHASE CONTRACT IS NOT SUBJECT TO
THE LIMITATIONS OF 15-10-412.

NEW SECTION. SECTION 6. PAYMENT OF OPERATING EXPENSES.
A LEASE-PURCHASE CONTRACT MAY CONTAIN PROVISIONS REQUIRING
THE GOVERNMENTAL UNIT OR THE LESSOR TO PAY PART OR ALL OF
THE COSTS OF INSURING, MAINTAINING, AND REPAIRING THE
BUILDING THROUGHOUT THE TERM OF THE LEASE-PURCHASE CONTRACT.
THESE OBLIGATIONS, IF ASSUMED BY THE GOVERNMENTAL UNIT, DO
NOT CONSTITUTE INDEBTEDNESS ON THE PART OF THE GOVERNMENTAL
UNIT.

NEW SECTION. SECTION 7. TAX-EXEMPT INTEREST. THE
INTEREST PAYABLE ON ANY LEASE-PURCHASE CONTRACT, WHEN
SEPARATELY IDENTIFIED AS INTEREST IN THE LEASE-PURCHASE
CONTRACT, MAY NOT BE INCLUDED IN GROSS INCOME FOR PURPOSES
OF THE MONTANA INDIVIDUAL INCOME TAX.

SECTION 8. SECTION 15-10-412, MCA, IS AMENDED TO READ:

"15-10-412. Property tax limited to 1986 levels --
clarification -- extension to all property classes. Section
15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply
to all classes of property described in Title 15, chapter 6,
part 1.

(2) The limitation on the amount of taxes levied is
interpreted to mean that, except as otherwise provided in

this section, the actual tax liability for an individual
property is capped at the dollar amount due in each taxing
unit for the 1986 tax year. In tax years thereafter, the
property must be taxed in each taxing unit at the 1986 cap
or the product of the taxable value and mills levied,
whichever is less for each taxing unit, except in a taxing
unit that levied a tax in tax years 1983 through 1985 but
did not levy a tax in 1986, in which case the actual tax
liability for an individual property is capped at the dollar
amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does
not mean that no further increase may be made in the total
taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a
taxing unit;

(b) construction, expansion, or remodeling of
improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

(f) increases in the amount of production or the value
of production for property described in 15-6-131 or
15-6-132;

(g) transfer of property from tax-exempt to taxable
status; or

1 (h) revaluations caused by:
 2 (i) cyclical reappraisal; or
 3 (ii) expansion, addition, replacement, or remodeling of
 4 improvements.
 5 (4) The limitation on the amount of taxes levied does
 6 not mean that no further increase may be made in the taxable
 7 valuation or in the actual tax liability on individual
 8 property in each class as a result of:
 9 (a) a revaluation caused by:
 10 (i) construction, expansion, replacement, or remodeling
 11 of improvements that adds value to the property; or
 12 (ii) cyclical reappraisal;
 13 (b) transfer of property into a taxing unit;
 14 (c) reclassification of property;
 15 (d) increases in the amount of production or the value
 16 of production for property described in 15-6-131 or
 17 15-6-132;
 18 (e) annexation of the individual property into a new
 19 taxing unit; or
 20 (f) conversion of the individual property from
 21 tax-exempt to taxable status.
 22 (5) Property in classes four and eleven is valued
 23 according to the procedures used in 1986, including the
 24 designation of 1982 as the base year, until the reappraisal
 25 cycle beginning January 1, 1986, is completed and new

1 valuations are placed on the tax rolls and a new base year
 2 designated, if the property is:
 3 (a) new construction;
 4 (b) expanded, deleted, replaced, or remodeled
 5 improvements;
 6 (c) annexed property; or
 7 (d) property converted from tax-exempt to taxable
 8 status.
 9 (6) Property described in subsections (5)(a) through
 10 (5)(d) that is not class four or class eleven property is
 11 valued according to the procedures used in 1986 but is also
 12 subject to the dollar cap in each taxing unit based on 1986
 13 mills levied.
 14 (7) The limitation on the amount of taxes, as clarified
 15 in this section, is intended to leave the property appraisal
 16 and valuation methodology of the department of revenue
 17 intact. Determinations of county classifications, salaries
 18 of local government officers, and all other matters in which
 19 total taxable valuation is an integral component are not
 20 affected by 15-10-401 and 15-10-402 except for the use of
 21 taxable valuation in fixing tax levies. In fixing tax
 22 levies, the taxing units of local government may anticipate
 23 the deficiency in revenues resulting from the tax
 24 limitations in 15-10-401 and 15-10-402, while understanding
 25 that regardless of the amount of mills levied, a taxpayer's

1 liability may not exceed the dollar amount due in each
2 taxing unit for the 1986 tax year unless:

3 (a) the taxing unit's taxable valuation decreases by 5%
4 or more from the 1986 tax year. If a taxing unit's taxable
5 valuation decreases by 5% or more from the 1986 tax year, it
6 may levy additional mills to compensate for the decreased
7 taxable valuation, but in no case may the mills levied
8 exceed a number calculated to equal the revenue from
9 property taxes for the 1986 tax year in that taxing unit.

10 (b) a levy authorized under Title 20 raised less
11 revenue in 1986 than was raised in either 1984 or 1985, in
12 which case the taxing unit may, after approval by the voters
13 in the taxing unit, raise each year thereafter an additional
14 number of mills but may not levy more revenue than the
15 3-year average of revenue raised for that purpose during
16 1984, 1985, and 1986;

17 (c) a levy authorized in 50-2-111 that was made in 1986
18 was for less than the number of mills levied in either 1984
19 or 1985, in which case the taxing unit may, after approval
20 by the voters in the taxing unit, levy each year thereafter
21 an additional number of mills but may not levy more than the
22 3-year average number of mills levied for that purpose
23 during 1984, 1985, and 1986.

24 (8) The limitation on the amount of taxes levied does
25 not apply to the following levy or special assessment

1 categories, whether or not they are based on commitments
2 made before or after approval of 15-10-401 and 15-10-402:

3 (a) rural improvement districts;
4 (b) special improvement districts;
5 (c) levies pledged for the repayment of bonded
6 indebtedness, including tax increment bonds;
7 (d) city street maintenance districts;
8 (e) tax increment financing districts;
9 (f) satisfaction of judgments against a taxing unit;
10 (g) street lighting assessments;
11 (h) revolving funds to support any categories specified
12 in this subsection (8);

13 (i) levies for economic development authorized pursuant
14 to 90-5-112(4);

15 (j) levies authorized under 7-6-502 for juvenile
16 detention programs; and

17 (k) elementary and high school districts; and

18 (l) levies required to make rental payments under a
19 lease-purchase contract approved under the provisions of
20 [section 4].

21 (9) The limitation on the amount of taxes levied does
22 not apply in a taxing unit if the voters in the taxing unit
23 approve an increase in tax liability following a resolution
24 of the governing body of the taxing unit containing:

25 (a) a finding that there are insufficient funds to

adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;

(b) an explanation of the nature of the financial emergency;

(c) an estimate of the amount of funding shortfall expected by the taxing unit;

(d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;

(e) a finding that there are no alternative sources of revenue;

(f) a summary of the alternatives that the governing body of the taxing unit has considered; and

(g) a statement of the need for the increased revenue and how it will be used.

(10) (a) The limitation on the amount of taxes levied does not apply to levies required to address the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

(b) The limitation set forth in this chapter on the amount of taxes levied does not apply to levies to support:

(i) a city-county board of health as provided in Title 50, chapter 2, if the governing bodies of the taxing units served by the board of health determine, after a public hearing, that public health programs require funds to ensure the public health. A levy for the support of a local board

of health may not exceed the 5-mill limit established in 50-2-111.

(ii) county, city, or town ambulance services authorized by a vote of the electorate under 7-34-102(2).

(11) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402."

NEW SECTION. Section 9. Lease-purchase financing of public construction projects -- authority. In addition to currently authorized methods of contracting public works, the state, as authorized by the legislature, or a county, city, or town, as authorized by its governing body, may, for a period not to exceed 20 years, lease a building, structure, or other improvement for any authorized public purpose pursuant to a contract that provides for the construction of the building, structure, or other improvement under a lease-purchase plan. In conjunction with the plan, the state, county, city, or town may grant leases, easements, or licenses for lands under the control of the state, county, city, or town for a period not to exceed 20

years. A lease must comply with the provisions of [sections 2 10 through 4 12] and must provide that at the end of the lease period, the building, structure, and related improvements, together with the land on which they are situated, become the property of the state, county, city, or town without cost.

NEW SECTION. Section 10. Lease-purchase financing of public construction projects -- procedures for awarding leases. (1) A public agency authorized under [section 1 9] to acquire a building, structure, or other improvement by a lease-purchase contract shall comply with the following requirements:

(a) The public agency shall develop a request for proposals that clearly defines the project program, functional requirements, quality considerations, time requirements for submission of proposals, construction time requirements, financial requirements for bidders, project budget, and proposal evaluation scoring methods, including the relative importance of evaluation factors. A request for proposals may be amended at any time prior to the deadline for the submission for proposals.

(b) The public agency shall advertise in at least one issue each week for 3 consecutive weeks in two newspapers published in the state, one of which must be published at the seat of government and the other in the county where the

work is to be performed, if different. The advertisement must call for the submission of letters of interest and eventual submission of proposals and must state the time and place for reply.

(c) To respond to the newspaper advertisement, a firm shall respond on or before the time and date designated in the advertisement. The response must take the form of a one-page letter of interest that must provide the firm's name and address.

(d) All timely letters of interest must be opened at the same time, publicly read, and kept on file by the public agency. A firm that fails to meet the deadline is barred from the procurement process.

(e) The public agency shall send a letter to each of the firms that submitted a letter of interest under subsection (1)(c), inviting each firm to submit a written proposal, on a form created by the public agency, on or before a specified time and date. Proposals must respond to all of the criteria set forth in the request for proposal. Each proposal must show a savings by use of the lease-purchase plan over conventional contracting and financing methods. A firm that fails to submit a written proposal, on the form supplied by the agency, on or before the deadline is barred from further involvement in the procurement process.

(f) After the request for proposals has been mailed and before written proposals are submitted, the public agency may contact the firms and may hold any meetings, discussions, or negotiations considered appropriate.

(g) The public agency shall keep the written proposals confidential until the contract is awarded.

(h) The public agency shall evaluate the written proposals and score them numerically to determine the lowest cost proposal based on total scores. The agency shall then select, but not rank, the three most qualified firms based upon the evaluation factors set forth in the request for proposals.

(i) The public agency shall send a letter to each firm that responded to the request for proposals, informing the firm of the three finalists and the procedure that will be followed in the awarding of the contract.

(j) The public agency shall separately interview the three finalists. Each interview may be attended only by representatives of the finalists and by public agency personnel. The interviews are confidential. Following the interviews, the public agency shall rank the finalists based on the weighted evaluation factors in the request for proposals and:

- (i) award the contract to the top-ranked finalist; or
- (ii) request best-and-final offers.

(k) The written request for best-and-final offers must state a time and date by which all best-and-final offers must be received. A firm that fails to submit a best-and-final offer may not be awarded the contract. The public agency shall rank the best-and-final offers based on weighted evaluation factors in the request for proposals and award the contract to the top-ranked firm.

(2) Contractors, architects, engineers, and other parties considered necessary to complete the project may contract together, as provided by law, to pursue the project.

(3) The public agency shall enter into a lease-purchase contract with the firm awarded the contract under subsection (1). The contract must require the lessor to comply with all applicable state, federal, and local laws in the construction of the building, structure, or improvements, including the bonding provisions in Title 18, chapter 2, part 2, and the requirements for the standard prevailing rate of wages in Title 18, chapter 2, part 4.

NEW SECTION. Section 11. Lease-purchase contracts -- building and construction code requirements. A building, structure, or improvement constructed and leased to the public agency under a lease-purchase contract pursuant to [section 2 10] must be constructed:

- (1) in accordance with all applicable state and

national safety, building, and construction code requirements; and

(2) to last, at a minimum, for a period of 30 years.

NEW SECTION. Section 12. Lease-purchase contracts involving private land. When a lease-purchase contract is awarded under [section 2 10] to a firm that owns the land upon which the building, structure, or improvement is to be built, the public agency must be granted an option to purchase the leased buildings, land, and any appurtenant facilities. The option price to be paid may not exceed fair market value as of the time the option is exercised, as determined by a competent and qualified real estate appraiser selected by mutual agreement of the parties. However, the option price may not be less than a sum equal to the remaining balance of any mortgage lien encumbering the property and securing the repayment of money advanced to the owner for the original construction of the building, plus an amount not to exceed 10% of the mortgage balance.

NEW SECTION. Section 13. Applicability. With respect to state construction, [this act] applies to all buildings, structures, and improvements that may be authorized by the legislature during the 53rd legislative session and that may be authorized in future sessions.

NEW SECTION. Section 14. Effective date. [This act] is effective on passage and approval.

-End-

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