

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0466.01 Jason Gelender x4330

HOUSE BILL 15-1046

HOUSE SPONSORSHIP

Moreno,

SENATE SPONSORSHIP

Scott,

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION FOR THE EXECUTIVE DIRECTOR OF THE**
102 **DEPARTMENT OF TRANSPORTATION TO WAIVE DEPARTMENT**
103 **PROJECT COST ESTIMATE-BASED STATUTORY CONTRACT**
104 **AMOUNT LIMITS WHEN AWARDING A HIGHWAY PROJECT**
105 **CONTRACT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, if there are fewer than 3 bidders for a highway project, the department of transportation (CDOT) may only award a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

contract if:

- ! The contract amount is no more than 10% over CDOT's project cost estimate; or
- ! CDOT's project cost estimate is less than \$1 million and the contract amount is less than 25% over the estimate.

The bill allows CDOT to award a highway contract to the low responsible bidder regardless of CDOT's project cost estimate if the executive director of CDOT determines in writing that it is in the best financial, economic, or other interest of the state to do so. The written determination must be included in the contract file and publicly posted on CDOT's web site.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) It is the responsibility of state agencies to find and promote
5 more efficient ways to use taxpayer dollars;

6 (b) The department of transportation is implementing several
7 efficiency processes as part of a comprehensive internal review of its
8 project cost estimating process;

9 (c) This act reflects the department's ongoing efforts to provide
10 transparent administrative processes for better use of taxpayer dollars;

11 (d) A variety of factors, including labor costs, material costs, and
12 economic variables, influence cost estimates for department construction
13 projects;

14 (e) Under current law, if there are fewer than three bidders for a
15 department construction project, the department cannot make an award
16 if the bids exceed statutory limits, resulting in longer project timelines
17 and additional fiscal impacts to the department;

18 (f) These statutory requirements for awarding contracts when
19 there are fewer than three bidders are some of the most stringent in the

1 country;

2 (g) Under specific circumstances, this act allows the department
3 to conduct a thorough bid analysis to evaluate the low bid for a
4 construction project when fewer than three bids are received; and

5 (h) It is therefore necessary, appropriate, and in the best interest
6 of the state to enact this act and thereby create an efficient and transparent
7 process to allow more construction projects to be completed throughout
8 the state.

9 **SECTION 2.** In Colorado Revised Statutes, 43-1-113, **amend**
10 (16) as follows:

11 **43-1-113. Funds - budgets - fiscal year - reports and**
12 **publications - repeal.** (16) (a) If there are fewer than three bidders on a
13 DESIGN BID BUILD highway project, no award shall be made if the award
14 is more than ten percent over the estimate of the department of
15 transportation on the project; except that, if the estimate of the department
16 on the project is less than one million dollars and there are fewer than
17 three bidders, the executive director may make an award of more than ten
18 percent, but less than twenty-five percent, over the estimate of the
19 department to the low responsible bidder, as defined in section
20 24-103-101 (3), C.R.S.

21 (b) Repealed.

22 (c) (I) NOTWITHSTANDING THE LIMITATIONS SET FORTH IN
23 PARAGRAPH (a) OF THIS SUBSECTION (16), THE EXECUTIVE DIRECTOR MAY
24 MAKE AN AWARD TO THE LOW RESPONSIBLE BIDDER REGARDLESS OF THE
25 ESTIMATE OF THE DEPARTMENT IF THE EXECUTIVE DIRECTOR DETERMINES
26 IN WRITING THAT IT IS IN THE BEST FINANCIAL, ECONOMIC, OR OTHER
27 INTEREST OF THE STATE TO DO SO. THE WRITTEN DETERMINATION MUST BE

1 INCLUDED IN THE CONTRACT FILE AND MADE PUBLICLY AVAILABLE BY
2 POSTING ON THE DEPARTMENT'S WEB SITE.

3 (II) IN ITS ANNUAL PRESENTATION TO THE JOINT COMMITTEES OF
4 REFERENCE OF THE GENERAL ASSEMBLY THAT HAVE JURISDICTION OVER
5 TRANSPORTATION REQUIRED BY SECTION 2-7-203, C.R.S., THE
6 DEPARTMENT SHALL IDENTIFY EACH PROJECT FOR WHICH THE EXECUTIVE
7 DIRECTOR MADE AN AWARD PURSUANT TO SUBPARAGRAPH (I) OF THIS
8 PARAGRAPH (c) AND SHALL EXPLAIN THE REASONS FOR MAKING THE
9 AWARD AND ESTIMATE THE AMOUNT OF COST SAVINGS ACHIEVED BY
10 MAKING THE AWARD.

11 (III) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2018.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.