

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0901.01 Jason Gelender x4330

SENATE BILL 16-122

SENATE SPONSORSHIP

Baumgardner,

HOUSE SPONSORSHIP

Nordberg and Brown,

Senate Committees

Transportation

House Committees

A BILL FOR AN ACT

101 CONCERNING ADDITIONAL OVERSIGHT OF THE ACTIVITIES OF THE
102 DEPARTMENT OF TRANSPORTATION.

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/bills summaries>.)

The bill requires additional oversight of the department of transportation (CDOT) as follows:

- ! **Section 1** requires the state auditor to conduct a risk-based performance audit of CDOT no later than June 30, 2018.
- ! **Section 2** limits CDOT's existing authority to enter into 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.

lease-purchase agreement that requires total payments exceeding \$500,000 without specific prior authorization by a bill enacted by the general assembly to lease-purchase agreements for the lease and purchase of personal property only.

! **Section 3** requires CDOT:

! To close each transportation project and release any money budgeted for the project as quickly as feasible and within one year following the substantial completion of the project unless a pending legal claim related to the project or an unusual circumstance beyond the control of CDOT unavoidably requires a longer time to close the project;

! To report on its public website within 2 weeks of a competitively bid transportation contract award, the identity of the winning bidder, the amount of the winning bid, and whether or not the bid awarded was the low bid, and, if not, why CDOT chose the bid over a lower bid;

! To annually report to the transportation commission regarding the percentages and total amount of money budgeted and expended during the preceding fiscal year for payments to private sector contractors for work on transportation projects and total transportation project costs for projects completed by CDOT employees, including indirect cost recoveries and employee salaries; and

! On or after July 1, 2016, and on and after July 1 of each year thereafter, to report to the transportation legislation review committee regarding amendments made to the statewide transportation improvement plan that were adopted during the most recently ended fiscal year and that added or deleted a project from the plan or modified the funding priority of any project included in the plan. The report must include an explanation of the reasons for each reported policy amendment and administrative action amendment.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 2-3-122 as

1 follows:

2 **2-3-122. Risk-based performance audit of department of**
3 **transportation - repeal.** (1) NO LATER THAN JUNE 30, 2018, THE STATE
4 AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A RISK-BASED
5 PERFORMANCE AUDIT OF THE DEPARTMENT OF TRANSPORTATION.

6 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018.

7 **SECTION 2.** In Colorado Revised Statutes, 24-82-801, **amend**
8 (6) (a) and (7) as follows:

9 **24-82-801. Lease-purchase agreements for acquisition of real**
10 **or personal property.** (6) (a) Notwithstanding any provision of this
11 section to the contrary, ~~the department of transportation,~~ institutions of
12 higher education, the Auraria higher education center established in
13 article 70 of title 23, C.R.S., and the state treasurer may enter into
14 lease-purchase agreements if the state controller as authorized by section
15 24-30-202 approves each lease-purchase agreement that requires total
16 payments in excess of five hundred thousand dollars over the term of the
17 agreement or as otherwise provided by law. NOTWITHSTANDING ANY
18 PROVISION OF THIS SECTION TO THE CONTRARY, THE DEPARTMENT OF
19 TRANSPORTATION MAY ENTER INTO LEASE-PURCHASE AGREEMENTS FOR
20 THE LEASE AND PURCHASE OF PERSONAL PROPERTY ONLY IF THE STATE
21 CONTROLLER AS AUTHORIZED BY SECTION 24-30-202 APPROVES EACH
22 LEASE-PURCHASE AGREEMENT THAT REQUIRES TOTAL PAYMENTS IN
23 EXCESS OF FIVE HUNDRED THOUSAND DOLLARS OVER THE TERM OF THE
24 AGREEMENT OR AS OTHERWISE PROVIDED BY LAW.

25 (7) Nothing in this section shall be construed to impair any
26 contract or instrument in existence on July 1, 2009, OR ANY CONTRACT OR
27 INSTRUMENT TO WHICH THE DEPARTMENT OF TRANSPORTATION IS A PARTY

1 IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (7), AS
2 AMENDED, if the contract was validly entered into or the instrument was
3 validly issued under the law in effect at the time of entering into said
4 contract or issuing said instrument.

5 **SECTION 3.** In Colorado Revised Statutes, **add** 43-1-123 as
6 follows:

7 **43-1-123. Project closure and project reporting requirements.**

8 (1) THE DEPARTMENT SHALL CLOSE EACH TRANSPORTATION PROJECT AND
9 RELEASE ANY MONEY BUDGETED FOR THE PROJECT AS QUICKLY AS
10 FEASIBLE AND WITHIN ONE YEAR FOLLOWING THE SUBSTANTIAL
11 COMPLETION OF THE PROJECT UNLESS A PENDING LEGAL CLAIM RELATING
12 TO THE PROJECT OR AN UNUSUAL CIRCUMSTANCE BEYOND THE CONTROL
13 OF THE DEPARTMENT UNAVOIDABLY REQUIRES A LONGER TIME TO CLOSE
14 THE PROJECT.

15 (2) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, FOR
16 TRANSPORTATION PROJECTS FOR WHICH THE DEPARTMENT AWARDS A
17 COMPETITIVELY BID CONTRACT ON OR AFTER JULY 1, 2016, THE
18 DEPARTMENT SHALL REPORT ON ITS PUBLIC WEBSITE WITHIN TWO WEEKS
19 OF THE CONTRACT AWARD:

- 20 (a) THE IDENTITY OF THE WINNING BIDDER;
- 21 (b) THE AMOUNT OF THE WINNING BID; AND
- 22 (c) WHETHER OR NOT THE BID AWARDED WAS THE LOW BID, AND,
23 IF NOT, WHY THE DEPARTMENT CHOSE THE BID OVER A LOWER BID.

24 (3) NO LATER THAN NOVEMBER 1, 2017, AND NO LATER THAN
25 NOVEMBER 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL
26 REPORT TO THE TRANSPORTATION COMMISSION REGARDING THE
27 PERCENTAGES AND TOTAL AMOUNT OF MONEY BUDGETED AND EXPENDED

1 DURING THE PRECEDING FISCAL YEAR FOR:

2 (a) PAYMENTS TO PRIVATE SECTOR CONTRACTORS FOR WORK ON
3 TRANSPORTATION PROJECTS; AND

4 (b) TOTAL TRANSPORTATION PROJECT COSTS FOR PROJECTS
5 COMPLETED BY DEPARTMENT EMPLOYEES, INCLUDING INDIRECT COST
6 RECOVERIES AND EMPLOYEE SALARIES.

7 (4) ON OR AFTER JULY 1, 2016, AND ON AND AFTER JULY 1 OF
8 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE
9 TRANSPORTATION LEGISLATION REVIEW COMMITTEE CREATED IN SECTION
10 43-2-145(1) REGARDING ALL POLICY AMENDMENTS AND ADMINISTRATIVE
11 ACTION AMENDMENTS MADE TO THE STATEWIDE TRANSPORTATION
12 IMPROVEMENT PLAN THAT WERE ADOPTED DURING THE MOST RECENTLY
13 ENDED FISCAL YEAR AND THAT ADDED OR DELETED A PROJECT FROM THE
14 PLAN OR MODIFIED THE FUNDING PRIORITY OF ANY PROJECT INCLUDED IN
15 THE PLAN. THE REPORT SHALL INCLUDE AN EXPLANATION OF THE REASONS
16 FOR EACH REPORTED POLICY AMENDMENT AND ADMINISTRATIVE ACTION
17 AMENDMENT.

18 **SECTION 4. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.