

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 18-268

BY SENATOR(S) Scott and Moreno, Cooke, Jahn, Kefalas, Martinez Humenik, Priola, Tate, Todd;  
also REPRESENTATIVE(S) McLachlan, Coleman, Esgar, Exum, Gray, Hansen, Herod, Kennedy, Kraft-Tharp, Lontine, Melton, Michaelson Jenet, Rosenthal, Salazar, Winter, Young, Duran.

CONCERNING THE SCOPE OF THE AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION TO AWARD A DESIGN BID BUILD HIGHWAY PROJECT CONTRACT IN AN AMOUNT THAT EXCEEDS THE ESTIMATE OF THE DEPARTMENT ON THE PROJECT.

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

**SECTION 1.** In Colorado Revised Statutes, 43-1-113, **amend** (16)(a) and (16)(c) as follows:

**43-1-113. Funds - budgets - fiscal year - reports and publications - repeal.** (16) (a) If there are fewer than three bidders on a design bid build highway project, no award shall be made if the award is more than ten percent over the estimate of the department of transportation on the project; except that, if the estimate of the department on the project is less than one million dollars and there are fewer than three bidders, the executive director **OR THE EXECUTIVE DIRECTOR'S DESIGNEE** may make an award of more than

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

ten percent, but less than twenty-five percent, over the estimate of the department to the low responsible bidder, as defined in ~~section 24-101-301~~ (24) SECTION 24-101-301 (23).

(c) (I) Notwithstanding the limitations set forth in ~~paragraph (a) of this subsection (16)~~ SUBSECTION (16)(a) OF THIS SECTION, the executive director may make an award to the low responsible bidder regardless of the estimate of the department if the executive director 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 made publicly available by posting on the department's website.

(II) In its annual presentation to the joint committees of reference of the general assembly that have jurisdiction over transportation required by section 2-7-203, ~~C.R.S.~~, the department shall identify each project for which the executive director made an award pursuant to ~~subparagraph (f) of this paragraph (c)~~ SUBSECTION (16)(c)(I) OF THIS SECTION and shall explain the reasons for making the award and estimate the amount of cost savings achieved by making the award.

(III) ~~This paragraph (c) is repealed, effective July 1, 2018.~~ THE DEPARTMENT SHALL PROMINENTLY POST ON THE HOME PAGE OF ITS WEBSITE EITHER A LIST OF EACH STATE TRANSPORTATION PROJECT, REGARDLESS OF THE SIZE OF THE PROJECT OR THE METHOD OF CONTRACT PROCUREMENT THAT THE DEPARTMENT IS USING FOR THE PROJECT, FOR WHICH THE DEPARTMENT IS SEEKING A CONTRACTOR OR A LINK TO ANOTHER PAGE ON ITS WEBSITE THAT INCLUDES SUCH A PROMINENTLY POSTED LIST.

**SECTION 2. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Kevin J. Grantham  
PRESIDENT OF  
THE SENATE

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Crisanta Duran  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Effie Ameen  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO