

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-1246.01 Jason Gelender x4330

SENATE BILL 18-268

SENATE SPONSORSHIP

Scott and Moreno,

HOUSE SPONSORSHIP

McLachlan,

Senate Committees
Transportation

House Committees
Transportation & Energy

A BILL FOR AN ACT

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

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://leg.colorado.gov>.)

If there are fewer than 3 bidders on a design bid build highway project, a provision of current law generally prohibits the department of transportation (CDOT) from awarding a contract in an amount that is

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

HOUSE
3rd Reading Unamended
May 7, 2018

HOUSE
Amended 2nd Reading
May 4, 2018

SENATE
3rd Reading Unamended
May 1, 2018

SENATE
2nd Reading Unamended
April 27, 2018

more than 10% over CDOT's estimate on the project, but allows the executive director of CDOT (executive director) to award a contract that is more than 10% but less than 25% over the estimate if the estimate is less than \$1,000,000. The bill authorizes a designee of the executive director to award such a contract.

Another provision of current law, which is scheduled to repeal on July 1, 2018, authorizes the executive director to award a contract for a design bid build highway project to the low responsible bidder regardless of CDOT's estimate on the project if the executive director determines that it is in the best financial, economic, or other interest of the state to do so and requires CDOT, in its annual report to its legislative oversight committees, to explain the reasons for making the award and estimate the amount of cost savings achieved by making any such award. The bill prevents the authorization and reporting requirements from being repealed.

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

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

4 **43-1-113. Funds - budgets - fiscal year - reports and**
5 **publications - repeal.** (16) (a) If there are fewer than three bidders on a
6 design bid build highway project, no award shall be made if the award is
7 more than ten percent over the estimate of the department of
8 transportation on the project; except that, if the estimate of the department
9 on the project is less than one million dollars and there are fewer than
10 three bidders, the executive director OR THE EXECUTIVE DIRECTOR'S
11 DESIGNEE may make an award of more than ten percent, but less than
12 twenty-five percent, over the estimate of the department to the low
13 responsible bidder, as defined in ~~section 24-101-301 (24)~~ SECTION
14 24-101-301 (23).

15 (c) (I) Notwithstanding the limitations set forth in ~~paragraph (a)~~
16 ~~of this subsection (16)~~ SUBSECTION (16)(a) OF THIS SECTION, the executive
17 director may make an award to the low responsible bidder regardless of

1 the estimate of the department if the executive director determines in
2 writing that it is in the best financial, economic, or other interest of the
3 state to do so. The written determination must be included in the contract
4 file and made publicly available by posting on the department's website.

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

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

20 **SECTION 2. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.