

CHAPTER 236

GOVERNMENT - STATE

SENATE BILL 03-058

BY SENATOR(S) May R., Andrews, Jones, and Lamborn;
also REPRESENTATIVE(S) Cadman.

AN ACT

CONCERNING STATE GOVERNMENT EFFICIENCIES, AND, IN CONNECTION THEREWITH, CLARIFYING THE MEANING OF GRANTS UNDER THE "PROCUREMENT CODE", AUTHORIZING THE CREATION OF ALTERNATIVE PROCUREMENT METHODS, ALLOWING AN EXCEPTION TO THE SELECTION AND CONTRACT FORMATION REQUIREMENTS OF THE "PROCUREMENT CODE", AND ALLOWING AN EXCEPTION TO THE EMISSIONS TESTING REQUIREMENTS FOR MOTOR VEHICLES UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. 24-101-105 (1), Colorado Revised Statutes, is amended to read:

24-101-105. Application of this code. (1) This code shall apply to all publicly funded contracts entered into by all governmental bodies of the executive branch of this state; except that this code shall not apply to the procurement of bridge and highway construction nor to contracts for unsolicited or comparable proposals for public-private initiatives under section 43-1-1203, C.R.S. Except as provided in section 24-111-103, it shall also apply to contracts funded in whole or in part with federal assistance moneys. However, this code shall not apply to the awarding of ~~either~~ grants or TO THE AWARDING OF contracts between the state and its political subdivisions or other governments, except as provided in article 110 of this title. It shall apply to the transfer or disposal of state supplies. Except for the provisions of article 109 of this title, this code shall not apply to the procurement of public printing, as defined in section 24-70-201. This code shall not apply to the procurement of professional services, as defined in section 24-30-1402. This code shall not apply to the Colorado state fair authority created pursuant to section 35-65-401 (1), C.R.S. Upon the request of a governmental body purchasing items for resale to the public, the head of a purchasing agency may, by written determination, provide that this code shall not apply to items acquired for such resale. Nothing in this code or in rules promulgated under this code shall prevent any governmental body or political

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

SECTION 2. 24-101-301, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-101-301. Definitions. The terms defined in this section shall have the following meanings whenever they appear in this code, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular article or portion thereof:

(10.5) (a) "GRANT" MEANS THE FURNISHING OF ASSISTANCE, INCLUDING FINANCIAL OR OTHER MEANS OF ASSISTANCE, BY THE PURCHASING AGENCY TO ANY PERSON TO SUPPORT A PROGRAM AUTHORIZED BY LAW.

(b) THE TERM "GRANT" DOES NOT INCLUDE:

(I) A LOAN;

(II) AN AWARD REQUIRED BY THE TERMS OF A GRANT TO BE AWARDED IN ACCORDANCE WITH THE PURCHASING AGENCY'S PROCUREMENT STATUTES AND REGULATIONS; OR

(III) AN AWARD WHOSE PRIMARY PURPOSE IS TO PROCURE AN END PRODUCT TO SATISFY A REQUIREMENT OF THE PURCHASING AGENCY, EITHER IN THE FORM OF SUPPLIES, SERVICES, OR CONSTRUCTION.

SECTION 3. 24-103-201 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-103-201. Methods of source selection. (1) Unless otherwise authorized by law, all state contracts shall be awarded by competitive sealed bidding pursuant to section 24-103-202, except as provided in:

(f) SECTION 24-103-208, CONCERNING OTHER PROCUREMENT METHODS.

SECTION 4. Part 2 of article 103 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-103-208. Other procurement methods. THE EXECUTIVE DIRECTOR MAY ESTABLISH, BY RULE, OTHER COMPETITIVE PROCUREMENT METHODS THAT ARE DEEMED TO BE IN THE BEST INTEREST OF THE STATE AND THAT ARE CONSISTENT WITH THE PROVISIONS OF SECTION 24-101-102, INCLUDING, BUT NOT LIMITED TO, REVERSE AUCTIONS. FOR THE 2004-05 FISCAL YEAR AND EVERY OTHER FISCAL YEAR THEREAFTER, THE STATE AUDITOR SHALL REVIEW THE COMPETITIVE PROCUREMENT METHODS ESTABLISHED PURSUANT TO THIS SECTION.

SECTION 5. 24-110-201, Colorado Revised Statutes, is amended to read:

24-110-201. Cooperative purchasing authorized. (1) Any public procurement unit may either participate in, sponsor, conduct, or administer a cooperative

purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units, external procurement activities, or procurement consortiums ~~which~~ THAT include as members tax-exempt organizations as defined by section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open-ended state public procurement unit contracts ~~which~~ THAT are made available to local public procurement units.

(2) WITH PRIOR WRITTEN APPROVAL OF THE EXECUTIVE DIRECTOR AND UNDER PROCEDURES ESTABLISHED BY RULE, A STATE PUBLIC PROCUREMENT UNIT MAY PURCHASE GOODS OR SERVICES UNDER THE TERMS OF A CONTRACT BETWEEN A VENDOR AND AN EXTERNAL PROCUREMENT ACTIVITY OR A LOCAL PUBLIC PROCUREMENT UNIT WITHOUT COMPLYING WITH THE REQUIREMENTS OF SECTION 24-102-202.5 AND ARTICLE 103 OF THIS TITLE.

SECTION 6. 42-4-304 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-4-304. Definitions relating to automobile inspection and readjustment program. As used in sections 42-4-301 to 42-4-316, unless the context otherwise requires:

(3) (e) FOR PURPOSES OF THIS SUBSECTION (3), "SALE OR TRANSFER" SHALL NOT INCLUDE A CHANGE ONLY IN THE LEGAL OWNERSHIP AS SHOWN ON THE VEHICLE'S DOCUMENTS OF TITLE, WHETHER FOR PURPOSES OF REFINANCING OR OTHERWISE, THAT DOES NOT ENTAIL A CHANGE IN THE PHYSICAL POSSESSION OR USE OF THE VEHICLE.

SECTION 7. 42-4-310 (1) (b) (I) (B), (1) (b) (II) (A), and (1) (b) (II) (B), Colorado Revised Statutes, are amended to read:

42-4-310. Periodic emissions control inspection required. (1) (b) (I) (B) Effective May 28, 1999, new motor vehicles owned by the United States government or an agency thereof or by the state of Colorado or any agency or political subdivision thereof that would be registered in the program area shall be issued a certification of emissions compliance without inspection. ~~that~~ THE CERTIFICATION shall expire on the anniversary of the day of the issuance of such certification when such vehicle has reached its fourth model year or on the date of the transfer of ownership at any time prior to the fourth model year. Prior to the expiration of such certification such vehicle shall be inspected and a certification of emissions control shall be obtained therefor. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (B), "TRANSFER OF OWNERSHIP" SHALL NOT INCLUDE A CHANGE ONLY IN THE LEGAL OWNERSHIP AS SHOWN ON THE VEHICLE'S DOCUMENTS OF TITLE, WHETHER FOR PURPOSES OF REFINANCING OR OTHERWISE, THAT DOES NOT ENTAIL A CHANGE IN THE PHYSICAL POSSESSION OR USE OF THE VEHICLE.

(II) (A) Motor vehicle dealers shall purchase verification of emissions test forms for the sum of twenty-five cents per form from the department or persons authorized by the department to make such sales to be used only on new motor vehicles. No refund or credit shall be allowed for any unused verification of emissions test forms.

New motor vehicles required under this section to have a verification of emissions test form shall be issued a certification of emissions compliance without inspection. ~~which~~ THE CERTIFICATION shall expire on the anniversary of the day of the issuance of such certification when such vehicle has reached its fourth model year or on the date of the transfer of ownership at any time prior to the fourth model year. Prior to the expiration of such certification such vehicle shall be inspected and a certification of emissions control shall be obtained therefor. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (A), "TRANSFER OF OWNERSHIP" SHALL NOT INCLUDE A CHANGE ONLY IN THE LEGAL OWNERSHIP AS SHOWN ON THE VEHICLE'S DOCUMENTS OF TITLE, WHETHER FOR PURPOSES OF REFINANCING OR OTHERWISE, THAT DOES NOT ENTAIL A CHANGE IN THE PHYSICAL POSSESSION OR USE OF THE VEHICLE.

(B) 1982 and newer model motor vehicles required pursuant to this section to have a certification of emissions control shall be inspected at the time of the sale or transfer of any such vehicle and, prior to registration renewal, shall be issued a certification of emissions control that shall be valid for twenty-four months except as provided under section 42-4-309. This sub-subparagraph (B) does not apply to the sale of a motor vehicle ~~which~~ THAT is inoperable or otherwise cannot be tested in accordance with regulations promulgated by the department of revenue if the seller of the motor vehicle provides a written notice to the purchaser pursuant to the requirements of subsection (4) of this section. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (B), "SALE OR TRANSFER" SHALL NOT INCLUDE A CHANGE ONLY IN THE LEGAL OWNERSHIP AS SHOWN ON THE VEHICLE'S DOCUMENTS OF TITLE, WHETHER FOR PURPOSES OF REFINANCING OR OTHERWISE, THAT DOES NOT ENTAIL A CHANGE IN THE PHYSICAL POSSESSION OR USE OF THE VEHICLE.

SECTION 8. Effective date. This act shall take effect upon passage; except that section 7 of this act shall only take effect if House Bill 03-1016 is not enacted at the First Regular Session of the Sixty-fourth General Assembly and does not become law.

SECTION 9. 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.

Approved: May 2, 2003