

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 21-0348.02 Jason Gelender x4330

HOUSE BILL 21-1056

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A BILL FOR AN ACT

101 **CONCERNING PUBLIC PROJECTS SUPERVISED BY THE DEPARTMENT OF**
102 **TRANSPORTATION THAT ARE SUBJECT TO THE "CONSTRUCTION**
103 **BIDDING FOR PUBLIC PROJECTS ACT".**

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>.)

Under current law, the requirements of the "Construction Bidding for Public Projects Act" (act) generally apply to a public project if the cost of the project is reasonably expected to exceed \$500,000 for any fiscal year; except that a public project supervised by the department of transportation (CDOT) is subject to the requirements of the act if the cost

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.

SENATE
2nd Reading Unamended
April 30, 2021

HOUSE
3rd Reading Unamended
April 12, 2021

HOUSE
Amended 2nd Reading
April 9, 2021

of the project is reasonably expected to exceed \$150,000 for any fiscal year. The bill:

- Repeals the lower cost amount for CDOT projects, which means that the requirements of the act, including the requirement that CDOT prepare a bid estimate when it proposes to undertake a project itself rather than awarding the project to a contractor through competitive bidding, will apply to a CDOT project only if the cost of the project is reasonably expected to exceed \$500,000 for any fiscal year; and
- Increases from \$50,000 to \$100,000 the maximum cost for a CDOT project that is exempt from transportation commission approval.

The bill also limits the existing requirement that CDOT pay all employees performing work on any public project local prevailing wages in accordance with specified federal acts to projects that cost more than \$500,000.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-92-102, **amend**
3 **the introductory portion and (8)(c) as follows:**

4 **24-92-102. Definitions.** As used in this ~~article~~ ARTICLE 92, unless
5 the context otherwise requires:

6 (8) (c) "Public project" does not include any project under the
7 supervision of the department of transportation for which appropriation
8 or expenditure of funds may be reasonably expected not to exceed ~~one~~
9 **TWO** hundred fifty thousand dollars in the aggregate of any fiscal year.

10 **SECTION 2.** In Colorado Revised Statutes, 24-92-109, **amend**
11 (1) as follows:

12 **24-92-109. Agency of government to submit cost estimate.**

13 (1) Whenever an agency of government proposes to undertake the
14 construction of a public project, reasonably expected to cost in excess of
15 fifty thousand dollars by any means or method other than by a contract
16 awarded by competitive bid, it shall prepare and submit a cost estimate in

1 the same manner as other bidders; except that, for projects under the
2 supervision of the department of transportation undertaken by such means
3 or method, the department shall prepare and submit a cost estimate if the
4 COST OF THE project is reasonably expected to exceed ~~one hundred fifty~~
5 ~~TWO HUNDRED FIFTY~~ thousand dollars. Cost estimates ~~in excess of fifty~~
6 ~~thousand dollars but less than or equal to one hundred fifty~~ FOR PROJECTS
7 UNDERTAKEN BY THE DEPARTMENT OF TRANSPORTATION THAT ARE
8 REASONABLY EXPECTED TO COST MORE THAN ONE HUNDRED ~~FIFTY~~
9 THOUSAND DOLLARS BUT NOT MORE THAN ~~TWO HUNDRED FIFTY~~
10 THOUSAND dollars shall be submitted to the transportation commission on
11 at least a quarterly basis for its review and approval. ~~Such~~ AN agency of
12 government itself may not undertake ~~the~~ A proposed project unless it
13 shows the lowest cost estimate.

14 **SECTION 3.** In Colorado Revised Statutes, **add** 24-92-114 as
15 follows:

16 **24-92-114. Department of transportation - reporting**
17 **requirements.** (1) THE DEPARTMENT OF TRANSPORTATION SHALL
18 ANNUALLY IDENTIFY IN A REPORT TO THE TRANSPORTATION COMMISSION
19 AND TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE OF THE
20 GENERAL ASSEMBLY ALL HIGHWAY MAINTENANCE PROJECTS FOR THE
21 REPORTING YEAR COSTING MORE THAN ONE HUNDRED FIFTY THOUSAND
22 DOLLARS BUT NOT MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS
23 THAT:

24 (a) THE DEPARTMENT IS COMPLETING USING ITS OWN EMPLOYEES;

25 (b) THE DEPARTMENT AWARDED BY INVITATION FOR BIDS
26 PURSUANT TO SECTION 24-92-103 OR BY COMPETITIVE SEALED BEST
27 VALUE BIDDING PURSUANT TO SECTION 24-92-103.5; OR

1 (c) FOR WHICH THE DEPARTMENT SOLICITED BUT DID NOT RECEIVE
2 BIDS PURSUANT TO SECTION 24-92-103 OR 24-92-103.5.

3 (2) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
4 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN
5 SUBSECTION (1) OF THIS SECTION CONTINUES INDEFINITELY.

6 **SECTION 4.** In Colorado Revised Statutes, 24-92-202, **amend**
7 (2) as follows:

8 **24-92-202. Contractors subject to provisions - weekly payment**
9 **of employees - rules.** (2) This part 2 does not apply to the department of
10 transportation, regardless of the amount or funding source of the public
11 project; except that A CONTRACTOR PERFORMING WORK ON A PUBLIC
12 PROJECT FOR the department of transportation is required to pay
13 employees performing work on any public project, regardless of the
14 amount or funding source of the public project, in accordance with the
15 WAGE requirements of the federal "Davis-Bacon Act", 40 U.S.C. sec.
16 3141 et seq., AND RELATED FEDERAL ACTS. ANY WORK PERFORMED ON A
17 PUBLIC PROJECT UNDER THE SUPERVISION OF THE DEPARTMENT OF
18 TRANSPORTATION THAT IS ELECTRICAL WORK, AS DEFINED IN SECTION
19 12-115-103 (5), MUST UTILIZE LICENSED JOURNEYMEN ELECTRICIANS, AS
20 DEFINED IN SECTION 12-115-103 (6), LICENSED MASTER ELECTRICIANS, AS
21 DEFINED IN SECTION 12-115-103 (7), OR REGISTERED AND PROPERLY
22 SUPERVISED APPRENTICES, AS DEFINED IN SECTION 12-115-103 (1),
23 REGARDLESS OF WHETHER THE WORK IS PERFORMED BY DEPARTMENT OF
24 TRANSPORTATION EMPLOYEES OR PERFORMED BY A CONTRACTOR ON
25 BEHALF OF THE DEPARTMENT OF TRANSPORTATION.

26 **SECTION 5. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly; except that, if a referendum petition is filed pursuant
3 to section 1 (3) of article V of the state constitution against this act or an
4 item, section, or part of this act within such period, then the act, item,
5 section, or part will not take effect unless approved by the people at the
6 general election to be held in November 2022 and, in such case, will take
7 effect on the date of the official declaration of the vote thereon by the
8 governor.

9 (2) This act applies to any public project for which an invitation
10 for bids is made on or after the applicable effective date of this act.