



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Revised Fiscal Note

(replaces fiscal note dated February 17, 2021)

**Drafting Number:** LLS 21-0348  
**Prime Sponsors:** Rep. Pelton  
Sen. Hansen

**Date:** April 22, 2021  
**Bill Status:** Senate Trans. & Energy  
**Fiscal Analyst:** Will Clark | 303-866-4720  
Will.Clark@state.co.us

**Bill Topic:** **COST THRESHOLDS FOR PUBLIC PROJECT BIDDING REQUIREMENTS**

**Summary of Fiscal Impact:**

- |   |  |
|---|--|
| <input type="checkbox"/> State Revenue                | <input type="checkbox"/> TABOR Refund            |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government        |
| <input type="checkbox"/> State Transfer               | <input type="checkbox"/> Statutory Public Entity |

This bill increases the cost thresholds for projects the Department of Transportation can perform in-house and for projects exempt from Transportation Commission approval, and requires the department to perform additional annual reporting. The bill increases state workload on an ongoing basis.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This revised fiscal note reflects the reengrossed bill.

## Summary of Legislation

Under current law, any public project supervised by the Department of Transportation (CDOT) that is reasonably expected to exceed \$150,000 for any fiscal year is subject to the "Construction Bidding for Public Projects Act," which requires state agencies to solicit bids for the construction of certain public projects. CDOT is also currently required to submit any project expected to exceed \$50,000 to the state Transportation Commission for review and approval. This bill increases the threshold for projects subject to the act to \$250,000, and increases the maximum cost for a CDOT project that is exempt from commission approval to \$150,000.

This bill updates the term "Davis-Bacon Act" to include "Davis-Bacon and Related Acts" (DBRA), and specifies that a contractor performing work for CDOT must pay all employees performing work on a public project in accordance with the DBRA, regardless of the amount or funding source of the project. The bill also requires any electrical work on a public project under the supervision of CDOT be performed by a licensed journeyman electrician, licensed master electrician or a registered and properly supervised apprentice, regardless of whether the work is being performed by CDOT or a contractor on behalf of CDOT.

The bill requires CDOT to annually identify in a report to the Transportation Commission and the General Assembly the highway maintenance projects that cost between \$150,000 and \$250,000 that CDOT is completing using its own employees; CDOT awarded by invitation for bids or by competitive sealed best value bidding; or for which CDOT solicited but did not receive bids.

## Background

The federal Davis-Bacon Act (DBA) requires laborers to be paid local prevailing wages and fringe benefits for construction, alteration, or repair of public buildings or public works under federal government contracts in excess of \$2,000. The DBRA extends the DBA coverage to other federally assisted construction, including road and bridge construction projects funded by the Federal Highway Administration.

In 2019, the “Construction Bidding for Public Projects Act” was amended with a requirement that CDOT pay contracted employees performing work on any public project, regardless of the amount or funding source, in accordance with the federal DBA. The requirement applies to solicitations issued on or after July 1, 2021.

CDOT is primarily funded from the State Highway Fund (SHF), which is comprised of federal funds, the state’s share of the Highway Users Tax Fund, and other various sources of revenue. The decision-making authority for the majority of state transportation revenue rests with the Transportation Commission, which is responsible for allocating funds from the SHF.

## State Expenditures

The bill increases workload for CDOT on an ongoing basis, and will have a one-time workload impact on the Department of Labor and Employment in FY 2021-22.

**Department of Transportation.** The bill will have various impacts on CDOT, as discussed below.

- *Bidding requirements.* Increasing the dollar limit for projects subject to bidding requirements will allow CDOT to complete more maintenance activities in-house each fiscal year. No change in overall maintenance expenditures is expected.
- *Reporting requirements.* The bill requires CDOT to report annually to the Transportation Commission and the General Assembly on all highway projects that cost between \$150,000 and \$250,000. This workload can be accomplished within existing appropriations.

**Department of Labor and Employment.** The bill will require minor changes to Keep Jobs in Colorado Act rules overseen by the Division of Labor Standards and Statistics, which can be accomplished within the normal course of business for the division.

## Technical Note

The bill currently has a referendum clause, which may prevent it from amending the targeted statute before it takes effect on July 1, 2021.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to projects which are bid on or after the effective date of the act.

## State and Local Government Contacts

Counties

Law

Transportation

Information Technology

Municipalities

Labor

Personnel