

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0307.01 Nicole Myers x4326

SENATE BILL 22-112

SENATE SPONSORSHIP

Kirkmeyer, Woodward

HOUSE SPONSORSHIP

Larson,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO STATE AGENCY EMERGENCY
102 PROCUREMENT REQUIREMENTS.

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>.)

The bill modifies the requirements for a state agency to make an emergency procurement when there exists a threat to public health, welfare, or safety under emergency conditions as follows:

- Current law authorizes a designee of the chief procurement officer or the procurement official to make an emergency procurement. The bill repeals the authorization of a

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.

- designee to make an emergency procurement.
- Current law specifies that a state agency is required to make an emergency procurement with competition as is practicable under the circumstances. The bill requires a state agency to obtain at least 3 informal bids in executing an emergency procurement.
- For an emergency procurement that exceeds \$150,000, a state agency is required to provide to the state controller a written determination of the basis for the emergency and for the selection of any vendor awarded a contract; and
- A state agency is required to provide to the state controller a written attestation that no conflict of interest exists between the vendor awarded the contract and the state agency awarding the contract or within that state agency and that the selection of the vendor and reason for the procurement were not unduly influenced by the person executing the procurement or any officer or employee of the executive branch of state government.

The state controller is prohibited from approving a contract or invoice for an emergency procurement unless the state agency has obtained 3 bids, provided a written determination of the basis for the emergency and selection of the vendor when required, and provided an attestation that there is no conflict.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-103-206
 3 as follows:

4 **24-103-206. Emergency procurements - definition.**

5 (1) Notwithstanding any other provision of this code, the executive
 6 director, the chief procurement officer, OR the procurement official ~~or a~~
 7 ~~designee of any such officer~~ may make or authorize others to make
 8 emergency procurements when there exists a threat to public health,
 9 welfare, or safety under emergency conditions, as defined in rules. ~~but~~
 10 ~~such emergency procurements shall be made with such competition as is~~
 11 ~~practicable under the circumstances. A written determination of the basis~~
 12 ~~for the emergency and for the selection of the particular contractor shall~~

1 ~~be included in the contract file.~~ A STATE AGENCY SHALL OBTAIN AT LEAST
2 THREE INFORMAL BIDS THROUGH A PUBLIC PROCESS IN EXECUTING AN
3 EMERGENCY PROCUREMENT. FOR AN EMERGENCY PROCUREMENT THAT
4 EXCEEDS ONE HUNDRED FIFTY THOUSAND DOLLARS, A STATE AGENCY
5 SHALL PROVIDE TO THE STATE CONTROLLER A FULL WRITTEN
6 DETERMINATION OF THE BASIS FOR THE EMERGENCY AND FOR THE
7 SELECTION OF ANY VENDOR AWARDED A CONTRACT, ALONG WITH ANY
8 OTHER DOCUMENTATION REQUIRED BY THE STATE CONTROLLER. ALL SUCH
9 DOCUMENTATION SHALL BE INCLUDED IN THE CONTRACT FILE. IN
10 ADDITION, A STATE AGENCY SHALL PROVIDE TO THE CONTROLLER A
11 WRITTEN ATTESTATION THAT NO CONFLICT OF INTEREST EXISTS BETWEEN
12 THE VENDOR AWARDED THE CONTRACT AND THE STATE AGENCY
13 AWARDED THE CONTRACT OR WITHIN THAT STATE AGENCY AND THAT THE
14 SELECTION OF THE VENDOR AND REASON FOR THE PROCUREMENT WERE
15 NOT UNDULY INFLUENCED BY THE PERSON EXECUTING THE PROCUREMENT
16 OR ANY OFFICER OR EMPLOYEE OF THE EXECUTIVE BRANCH OF STATE
17 GOVERNMENT.

18 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
19 REQUIRES, "INFORMAL BID" MEANS A WRITTEN OR ORAL QUOTATION THAT
20 DOES NOT REQUIRE A PUBLIC OPENING AT A SPECIFIC TIME, DATE, OR
21 LOCATION. WRITTEN EVIDENCE OF ORAL QUOTATIONS SHALL BE
22 MAINTAINED IN THE CONTRACT FILE.

23 **SECTION 2.** In Colorado Revised Statutes, 24-30-201, **add**
24 (1)(m) as follows:

25 **24-30-201. Accounts and control - controller.** (1) The powers,
26 duties, and functions concerning accounts and control as set forth in this
27 part 2 are the responsibility of the state controller. The executive director

1 of the department of personnel shall appoint the controller, subject to
2 section 13 of article XII of the state constitution. The controller must be
3 bonded in such amount as the executive director shall fix. The powers and
4 duties of the controller are:

5 (m) TO APPROVE PAYMENT FOR EMERGENCY PROCUREMENTS
6 PURSUANT TO SECTION 24-103-206. THE CONTROLLER SHALL NOT
7 APPROVE A CONTRACT OR AN INVOICE FOR AN EMERGENCY PROCUREMENT
8 UNLESS THE STATE AGENCY REQUESTING APPROVAL HAS COMPLIED WITH
9 THE FOLLOWING REQUIREMENTS:

10 (I) THE STATE AGENCY HAS OBTAINED AT LEAST THREE INFORMAL
11 BIDS, AS DEFINED IN SECTION 24-103-206 (2), THROUGH A PUBLIC
12 PROCESS;

13 (II) FOR AN EMERGENCY PROCUREMENT THAT EXCEEDS ONE
14 HUNDRED FIFTY THOUSAND DOLLARS, THE STATE AGENCY HAS PROVIDED
15 TO THE CONTROLLER A FULL WRITTEN DETERMINATION OF THE BASIS FOR
16 THE EMERGENCY AND FOR THE SELECTION OF ANY VENDOR AWARDED A
17 CONTRACT, ALONG WITH ANY OTHER DOCUMENTATION REQUIRED BY THE
18 CONTROLLER; AND

19 (III) THE STATE AGENCY HAS PROVIDED TO THE CONTROLLER A
20 WRITTEN ATTESTATION THAT NO CONFLICT OF INTEREST EXISTS BETWEEN
21 THE VENDOR AWARDED THE CONTRACT AND THE STATE AGENCY
22 AWARDED THE CONTRACT OR WITHIN THAT STATE AGENCY AND THAT THE
23 SELECTION OF THE VENDOR AND REASON FOR THE PROCUREMENT WERE
24 NOT UNDULY INFLUENCED BY THE PERSON EXECUTING THE PROCUREMENT
25 OR ANY OFFICER OR EMPLOYEE OF THE EXECUTIVE BRANCH OF STATE
26 GOVERNMENT.

27 **SECTION 3. Safety clause.** The general assembly hereby finds,

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