

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0563.01 Jason Gelender x4330

SENATE BILL 12-076

SENATE SPONSORSHIP

Grantham, Brophy, Mitchell, Lundberg, Cadman, Scheffel, King K., Neville, Renfroe, Roberts, White

HOUSE SPONSORSHIP

(None),

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 **CONCERNING DEPARTMENT OF TRANSPORTATION RULES GOVERNING**
102 **PREQUALIFICATION OF A CONTRACTOR AS A BIDDER FOR A**
103 **DEPARTMENT PROJECT, AND, IN CONNECTION THEREWITH,**
104 **PROHIBITING THE DEPARTMENT FROM PROMULGATING OR**
105 **ENFORCING ANY RULE THAT ALLOWS THE DEPARTMENT TO RELY**
106 **ON A CONTRACTOR'S LACK OF EXPERIENCE IN SUCCESSFULLY**
107 **BIDDING FOR AND COMPLETING DEPARTMENT PROJECTS TO**
108 **DISQUALIFY THE CONTRACTOR FROM PREQUALIFICATION IF THE**
109 **CONTRACTOR HAS EXPERIENCE IN SUCCESSFULLY COMPLETING**
110 **LOCAL STREET OR BRIDGE OR COUNTY ROAD OR BRIDGE**
111 **PROJECTS OR HAS OTHER CONSTRUCTION EXPERIENCE THAT**
112 **WOULD CAUSE A REASONABLE PERSON TO BELIEVE THAT THE**

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

101
102

**CONTRACTOR WILL BE ABLE TO SUCCESSFULLY COMPLETE 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://www.leg.state.co.us/billsummaries>.)

The bill prohibits the department of transportation (CDOT) from promulgating or enforcing any rule that allows CDOT to rely on a contractor's lack of experience in successfully bidding for and completing CDOT projects to disqualify the contractor from prequalification as a bidder for a CDOT project if the contractor has experience in successfully completing local street or bridge or county road or bridge projects or has other construction experience that would cause a reasonable person to believe that the contractor is qualified to complete the project.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-92-110 as
3 follows:

4 **24-92-110. Rules.** The executive director of the department of
5 personnel shall promulgate rules ~~and regulations which are~~ designed to
6 implement the provisions of this article; except that the executive director
7 of the department of transportation shall promulgate rules ~~and regulations~~
8 relating to bridge and highway construction bidding practices including,
9 notwithstanding any other provisions of this article, rules governing
10 debarment of contractors. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
11 OF TRANSPORTATION SHALL NOT PROMULGATE OR ENFORCE ANY RULE
12 THAT ALLOWS THE DEPARTMENT TO RELY ON A CONTRACTOR'S LACK OF
13 EXPERIENCE IN SUCCESSFULLY BIDDING FOR AND COMPLETING
14 DEPARTMENT PROJECTS TO DISQUALIFY THE CONTRACTOR FROM

1 PREQUALIFICATION AS A BIDDER FOR A DEPARTMENT PROJECT IF THE
2 CONTRACTOR HAS EXPERIENCE IN SUCCESSFULLY COMPLETING LOCAL
3 STREET OR BRIDGE OR COUNTY ROAD OR BRIDGE PROJECTS OR HAS OTHER
4 CONSTRUCTION EXPERIENCE THAT WOULD CAUSE A REASONABLE PERSON
5 TO BELIEVE THAT THE CONTRACTOR WILL BE ABLE TO SUCCESSFULLY
6 COMPLETE THE PROJECT. ~~The~~ Rules PROMULGATED PURSUANT TO THIS
7 SECTION shall include provisions requiring agencies of government to
8 keep certain public project records, even if duplicative, in accordance
9 with generally accepted cost accounting principles and standards.

10 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-93-107 as
11 follows:

12 **24-93-107. Supplemental provisions.** The executive director of
13 the department of personnel may establish supplemental provisions that
14 are designed to implement the provisions of this article; except that the
15 executive director of the department of transportation may establish
16 supplemental provisions relating to bridge and highway construction
17 contract procurement practices, including, notwithstanding any other
18 provision of this article, provisions governing debarment of participating
19 entities. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
20 TRANSPORTATION SHALL NOT ESTABLISH ANY SUPPLEMENTAL PROVISION
21 THAT ALLOWS THE DEPARTMENT TO RELY ON A CONTRACTOR'S LACK OF
22 EXPERIENCE IN SUCCESSFULLY BIDDING FOR AND COMPLETING
23 DEPARTMENT IPD CONTRACTS OR OTHER DEPARTMENT PROJECTS TO
24 DISQUALIFY THE CONTRACTOR FROM PREQUALIFICATION AS A BIDDER FOR
25 A DEPARTMENT PROJECT TO BE COMPLETED PURSUANT TO AN IPD
26 CONTRACT IF THE CONTRACTOR HAS EXPERIENCE IN SUCCESSFULLY
27 COMPLETING LOCAL STREET OR BRIDGE OR COUNTY ROAD OR BRIDGE

1 PROJECTS OR HAS OTHER CONSTRUCTION EXPERIENCE THAT WOULD CAUSE
2 A REASONABLE PERSON TO BELIEVE THAT THE CONTRACTOR WILL BE ABLE
3 TO SUCCESSFULLY COMPLETE THE PROJECT.

4 **SECTION 3. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 7, 2012, if adjournment sine die is on May 9,
8 2012); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2012 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

14 (2) The provisions of this act apply to applications for
15 prequalification as a bidder for department of transportation projects
16 submitted to the department on or after the applicable effective date of
17 this act.