

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0392.01 Nicole Myers x4326

HOUSE BILL 13-1093

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HOUSE SPONSORSHIP

Lawrence,

SENATE SPONSORSHIP

(None),

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House Committees  
Local Government

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE REQUIREMENT THAT A LOCAL GOVERNMENT USE  
102 COMPETITIVE SEALED BIDDING FOR PROCUREMENT CONTRACTS  
103 OVER A CERTAIN DOLLAR AMOUNT.

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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 requires an agency of local government (local government) to procure or dispose of supplies, services, or construction through competitive sealed bidding unless the appropriation or expenditure of moneys by the local government for a single contract for

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.*

the supplies, services, or construction may be reasonably expected not to exceed \$50,000 in the aggregate in any fiscal year.

The bill includes an exception to the competitive sealed bidding requirement if the local government does not receive any bids, the agency of local government has rejected all bids, or the responsible officer determines that it is necessary to make procurements or contracts under emergency conditions because there exists a threat to public health, welfare, or safety.

The bill prohibits a local government from dividing the procurement or disposal of supplies, services, or construction into 2 or more separate projects for the sole purpose of evading or attempting to evade the competitive sealed bidding requirement.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 13 to article  
3 1 of title 29 as follows:

4 **PART 13**

5 **BIDDING FOR LOCAL GOVERNMENT**

6 **PROCUREMENT CONTRACTS**

7 **29-1-1301. Legislative declaration.** THE GENERAL ASSEMBLY  
8 HEREBY FINDS AND DECLARES THAT LOCAL GOVERNMENT PROCEDURES  
9 FOR PROCURING OR DISPOSING OF SUPPLIES, SERVICES, OR CONSTRUCTION  
10 THAT WILL BE FUNDED IN WHOLE OR IN PART BY TAXPAYER DOLLARS IS A  
11 MATTER OF STATEWIDE CONCERN; THAT THE IDENTIFICATION AND  
12 WIDESPREAD PUBLICATION OF CONTRACTS FOR SUPPLIES, SERVICES, OR  
13 CONSTRUCTION WILL INCREASE THE COMPETITION FOR SUCH CONTRACTS  
14 LEADING TO A DECREASED COST TO TAXPAYERS THROUGHOUT THE STATE;  
15 THAT INCREASED PRIVATIZATION OF THE WORK PROCURED THROUGH SUCH  
16 CONTRACTS BY LOCAL GOVERNMENTS WILL AID IN THE DEVELOPMENT AND  
17 RETENTION OF LOCAL SMALL BUSINESSES, INDUSTRIES, AND  
18 CONSTRUCTION FIRMS, WILL BROADEN THE ECONOMIC BASE OF LOCAL  
19 AREAS, AND WILL CONTRIBUTE TO INCREASED ECONOMIC VITALITY

1 THROUGHOUT THE STATE; AND THAT THE PROVISIONS OF THIS PART 13 ARE  
2 ENACTED IN THE EXERCISE OF THE POLICE POWERS OF THIS STATE FOR THE  
3 PURPOSE OF PROTECTING THE HEALTH, PEACE, SAFETY, AND WELFARE OF  
4 THE PEOPLE OF THIS STATE.

5 **29-1-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE  
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "AGENCY OF LOCAL GOVERNMENT" MEANS ANY MUNICIPALITY,  
8 COUNTY, HOME RULE COUNTY, HOME RULE CITY, OR HOME RULE CITY AND  
9 COUNTY, OR ANY AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU,  
10 COMMISSION, INSTITUTION, OR OTHER AUTHORITY THEREOF THAT IS A  
11 BUDGETARY UNIT EXERCISING CONTRACTING AUTHORITY OR DISCRETION.

12 (2) "CONSTRUCTION" MEANS THE PROCESS OF BUILDING,  
13 ALTERING, REPAIRING, IMPROVING, OR DEMOLISHING ANY PUBLIC  
14 STRUCTURE OR BUILDING OR ANY OTHER PUBLIC IMPROVEMENTS OF ANY  
15 KIND TO ANY PUBLIC REAL PROPERTY. "CONSTRUCTION" INCLUDES  
16 CAPITAL CONSTRUCTION AND CONTROLLED MAINTENANCE.

17 (3) "CONTRACT" MEANS ANY TYPE OF AGREEMENT, REGARDLESS  
18 OF WHAT IT MAY BE CALLED, FOR THE PROCUREMENT OR DISPOSAL OF  
19 SUPPLIES, SERVICES, OR CONSTRUCTION. "CONTRACT" DOES NOT INCLUDE  
20 AN AGREEMENT FOR SUPPLIES, SERVICES, OR CONSTRUCTION FOR WHICH  
21 THE APPROPRIATION OR EXPENDITURE OF MONEYS FOR A SINGLE  
22 CONTRACT MAY BE REASONABLY EXPECTED NOT TO EXCEED FIFTY  
23 THOUSAND DOLLARS IN THE AGGREGATE IN ANY FISCAL YEAR.

24 (4) "SERVICES" MEANS THE FURNISHING OF LABOR, TIME, OR  
25 EFFORT BY A CONTRACTOR NOT INVOLVING THE DELIVERY OF A SPECIFIC  
26 END PRODUCT OTHER THAN REPORTS THAT ARE MERELY INCIDENTAL TO  
27 THE REQUIRED PERFORMANCE. "SERVICES" DOES NOT INCLUDE

1 PROFESSIONAL SERVICES AS DEFINED IN SECTION 24-30-1402 (6), C.R.S.

2 (5) "SUPPLIES" MEANS ALL PROPERTY, INCLUDING BUT NOT  
3 LIMITED TO EQUIPMENT, MATERIALS, AND INSURANCE. "SUPPLIES" DOES  
4 NOT INCLUDE LAND, THE PURCHASE OF AN INTEREST IN LAND, WATER OR  
5 MINERAL RIGHTS, WORKERS' COMPENSATION INSURANCE, OR BENEFIT  
6 INSURANCE FOR STATE EMPLOYEES.

7 **29-1-1303. Competitive sealed bidding.** (1) ALL CONTRACTS  
8 ENTERED BY AN AGENCY OF LOCAL GOVERNMENT SHALL BE AWARDED BY  
9 COMPETITIVE SEALED BIDDING EXCEPT AS PROVIDED IN SUBSECTION (2) OF  
10 THIS SECTION.

11 (2) COMPETITIVE SEALED BIDDING SHALL NOT BE REQUIRED WHEN:

12 (a) THE AGENCY OF LOCAL GOVERNMENT DOES NOT RECEIVE ANY  
13 BIDS OR THE AGENCY OF LOCAL GOVERNMENT HAS REJECTED ALL BIDS; OR

14 (b) THE RESPONSIBLE OFFICER DETERMINES THAT IT IS NECESSARY  
15 TO MAKE PROCUREMENTS OR CONTRACTS UNDER EMERGENCY CONDITIONS  
16 BECAUSE THERE EXISTS A THREAT TO PUBLIC HEALTH, WELFARE, OR  
17 SAFETY; EXCEPT THAT SUCH EMERGENCY PROCUREMENTS OR CONTRACTS  
18 SHALL BE MADE WITH SUCH COMPETITION AS IS PRACTICABLE UNDER THE  
19 CIRCUMSTANCES. A WRITTEN DETERMINATION OF THE BASIS FOR THE  
20 EMERGENCY AND FOR THE SELECTION OF THE PARTICULAR CONTRACTOR  
21 SHALL BE INCLUDED IN THE CONTRACT FILE.

22 (3) NOTHING IN THIS PART 13 SHALL BE CONSTRUED TO AFFECT OR  
23 LIMIT ANY ADDITIONAL REQUIREMENTS IMPOSED UPON AN AGENCY OF  
24 LOCAL GOVERNMENT FOR THE PROCUREMENT OR DISPOSAL OF SUPPLIES,  
25 SERVICES, OR CONSTRUCTION.

26 **29-1-1304. Prohibition of dividing work of state-funded public**  
27 **project.** IT IS UNLAWFUL FOR ANY AGENCY OF LOCAL GOVERNMENT TO

1 DIVIDE THE PROCUREMENT OR DISPOSAL OF SUPPLIES, SERVICES, OR  
2 CONSTRUCTION INTO TWO OR MORE SEPARATE PROJECTS FOR THE SOLE  
3 PURPOSE OF EVADING OR ATTEMPTING TO EVADE THE REQUIREMENTS OF  
4 THIS PART 13.

5 **SECTION 2. Act subject to petition - effective date.** This act  
6 takes effect at 12:01 a.m. on the day following the expiration of the  
7 ninety-day period after final adjournment of the general assembly (August  
8 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a  
9 referendum petition is filed pursuant to section 1 (3) of article V of the  
10 state constitution against this act or an item, section, or part of this act  
11 within such period, then the act, item, section, or part will not take effect  
12 unless approved by the people at the general election to be held in  
13 November 2014 and, in such case, will take effect on the date of the  
14 official declaration of the vote thereon by the governor.