

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 11-0371.01 Nicole Myers

**HOUSE BILL 11-1142**

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**HOUSE SPONSORSHIP**

**Ryden**, Court, Gardner D., Lee

**SENATE SPONSORSHIP**

**(None)**,

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**House Committees**

Economic and Business Development

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE REQUIREMENT THAT STATE AGENCIES CONSIDER**  
102             **THE STATE ECONOMIC IMPACT OF RESPONSES TO STATE**  
103             **PROCUREMENT CONTRACT SOLICITATIONS AS A COMPONENT OF**  
104             **AWARDING THE CONTRACT.**

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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 any state agency that issues an invitation for bids or a request for proposals for a procurement contract (invitation or

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.*

request) to consider the state economic impact of the bids or offers received in response to the invitation or request. If the contract is to be awarded through competitive sealed bidding, the contract shall be awarded to the low responsible bidder with the greatest state economic impact. If the contract is to be awarded through competitive sealed proposals, the state economic impact of an offer shall be one of the factors considered in evaluating the offer.

The executive director of the department of personnel (director) or the director's designee is required to create a method to calculate the state economic impact of each bid or offer received by a purchasing agency in response to an invitation or request and to establish a list of state economic impact questions to be included in all such invitations or requests. The bill specifies the information that shall be considered in determining the state economic impact of a bid or offer.

The bill requires any invitation or request to include the state economic impact questions created by the director or the director's designee and requires any bidder or offeror that responds to such invitation or request to submit accurate and complete information in response to the questions to be evaluated for the procurement contract.

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

2           **SECTION 1.** Part 2 of article 103 of title 24, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
4 read:

5           **24-103-210. State economic impact analysis.** (1) WHEN A  
6 CONTRACT FOR SUPPLIES OR SERVICES IS TO BE AWARDED THROUGH  
7 COMPETITIVE SEALED BIDDING PURSUANT TO SECTION 24-103-202 OR  
8 THROUGH COMPETITIVE SEALED BEST VALUE BIDDING PURSUANT TO  
9 SECTION 24-103-202.3, THE STATE PURCHASING DIRECTOR OR THE HEAD  
10 OF THE PURCHASING AGENCY SHALL CONSIDER THE STATE ECONOMIC  
11 IMPACT OF THE BID AS A COMPONENT OF THE COST ASSESSMENT OF THE  
12 BID. THE STATE PURCHASING DIRECTOR OR THE HEAD OF THE PURCHASING  
13 AGENCY SHALL AWARD A CONTRACT TO THE LOW RESPONSIBLE BIDDER  
14 WITH THE GREATEST STATE ECONOMIC IMPACT AS DETERMINED PURSUANT

1 TO THIS SECTION.

2 (2) WHEN A CONTRACT FOR SUPPLIES, SERVICES, OR PROFESSIONAL  
3 SERVICES IS TO BE AWARDED THROUGH A REQUEST FOR COMPETITIVE  
4 SEALED PROPOSALS PURSUANT TO SECTION 24-103-203, ONE OF THE  
5 EVALUATION FACTORS STATED IN THE REQUEST SHALL BE THE STATE  
6 ECONOMIC IMPACT OF THE OFFEROR'S PROPOSAL. SUCH ECONOMIC IMPACT  
7 SHALL BE DETERMINED PURSUANT TO THIS SECTION.

8 (3) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S  
9 DESIGNEE SHALL CREATE A METHOD FOR DETERMINING THE STATE  
10 ECONOMIC IMPACT OF EACH BID OR OFFER SUBMITTED IN RESPONSE TO AN  
11 INVITATION FOR BIDS OR REQUEST FOR PROPOSALS FOR A PROCUREMENT  
12 CONTRACT. IN CONNECTION WITH DEVELOPING THE METHOD FOR  
13 DETERMINING THE STATE ECONOMIC IMPACT OF A BID OR OFFER, THE  
14 EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL  
15 ESTABLISH A LIST OF STATE ECONOMIC IMPACT QUESTIONS TO BE  
16 INCLUDED IN ALL INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS.  
17 THE INFORMATION SOLICITED AND USED TO DETERMINE THE STATE  
18 ECONOMIC IMPACT OF EACH BID OR OFFER SHALL INCLUDE, BUT NEED NOT  
19 BE LIMITED TO, THE FOLLOWING:

20 (a) WHETHER THE BIDDER OR OFFEROR IS HEADQUARTERED IN  
21 COLORADO;

22 (b) THE PERCENTAGE OWNERSHIP OF THE BIDDER OR OFFEROR'S  
23 COMPANY THAT IS OWNED BY ONE OR MORE COLORADO RESIDENTS;

24 (c) THE NUMBER OF EMPLOYEES EMPLOYED BY THE BIDDER OR  
25 OFFEROR WHO WILL LIKELY BE ASSIGNED TO THE PROPOSED PROJECT WHO  
26 LIVE IN COLORADO, AND THE PERCENTAGE OF THE TOTAL NUMBER OF  
27 EMPLOYEES WHO WILL LIKELY BE ASSIGNED TO THE PROJECT WHO LIVE IN

1 COLORADO;

2 (d) THE ESTIMATED PERCENTAGE OF PURCHASES THAT THE BIDDER  
3 OR OFFEROR WILL MAKE IN CONNECTION WITH THE PROPOSED PROJECT  
4 THAT ARE FROM COLORADO-BASED SOURCES; AND

5 (e) THE ESTIMATED PERCENTAGE OF OPERATING EXPENSES THAT  
6 WILL BE INCURRED BY THE BIDDER OR OFFEROR IN CONNECTION WITH THE  
7 PROPOSED PROJECT THAT WILL BE PAID TO COLORADO-BASED SOURCES.

8 (4) FROM THE LIST OF QUESTIONS DEVELOPED PURSUANT TO  
9 SUBSECTION (3) OF THIS SECTION, THE EXECUTIVE DIRECTOR OR THE  
10 EXECUTIVE DIRECTOR'S DESIGNEE SHALL DEVISE A SYSTEM FOR  
11 DETERMINING, AT THE MINIMUM, THE FOLLOWING INFORMATION  
12 REGARDING THE STATE ECONOMIC IMPACT OF ANY BID OR OFFER:

13 (a) THE ESTIMATED AMOUNT OF COLORADO STATE SALES AND USE  
14 TAX TO BE GENERATED AND PAID BY THE BIDDER OR OFFEROR AS A RESULT  
15 OF THE PROPOSED PROJECT;

16 (b) THE ESTIMATED AMOUNT OF COLORADO STATE PERSONAL  
17 INCOME TAX OR COLORADO STATE CORPORATE INCOME TAX TO BE  
18 GENERATED AND PAID BY THE BIDDER OR OFFEROR AS A RESULT OF THE  
19 PROPOSED PROJECT;

20 (c) THE ESTIMATED AMOUNT OF COLORADO STATE PROPERTY TAX  
21 TO BE GENERATED AND PAID BY THE BIDDER OR OFFEROR AS A RESULT OF  
22 THE PROPOSED PROJECT; AND

23 (d) THE ESTIMATED AMOUNT OF ANY OTHER COLORADO STATE  
24 TAXES TO BE GENERATED AND PAID BY THE BIDDER OR OFFEROR AS A  
25 RESULT OF THE PROPOSED PROJECT.

26 (5) ANY INVITATION FOR BIDS OR REQUEST FOR PROPOSALS ISSUED  
27 BY THE STATE PURCHASING DIRECTOR OR THE HEAD OF THE PURCHASING

1 AGENCY FOR A PROCUREMENT CONTRACT SHALL INCLUDE THE STATE  
2 ECONOMIC IMPACT QUESTIONS CREATED PURSUANT TO SUBSECTION (3) OF  
3 THIS SECTION IN THE INFORMATION SOLICITED IN CONNECTION WITH THE  
4 INVITATION FOR BIDS OR REQUEST FOR PROPOSALS.

5 (6) ANY BIDDER OR OFFEROR THAT RESPONDS TO AN INVITATION  
6 FOR BIDS OR A REQUEST FOR PROPOSALS ISSUED BY THE STATE  
7 PURCHASING DIRECTOR OR THE HEAD OF THE PURCHASING AGENCY SHALL  
8 SUBMIT ACCURATE AND COMPLETE INFORMATION IN RESPONSE TO THE  
9 STATE ECONOMIC IMPACT QUESTIONS TO BE EVALUATED FOR THE  
10 PROCUREMENT CONTRACT.

11 **SECTION 2.** 24-103-202 (7), Colorado Revised Statutes, is  
12 amended to read:

13 **24-103-202. Competitive sealed bidding.** (7) SUBJECT TO THE  
14 CONDITION SPECIFIED IN SECTION 24-103-210 (1), the contract shall be  
15 awarded with reasonable promptness by written notice to the low  
16 responsible bidder whose bid meets the requirements and criteria set forth  
17 in the invitation for bids, except as otherwise provided for certain low tie  
18 bids under section 24-103-202.5. In the event that all bids for a  
19 construction project exceed available funds, as certified by the  
20 appropriate fiscal officer, the head of a purchasing agency is authorized,  
21 in situations where time or economic considerations preclude  
22 resolicitation of work of a reduced scope, to negotiate an adjustment of  
23 the bid price with the low responsible bidder in order to bring the bid  
24 within the amount of available funds; except that the functional  
25 specifications integral to completion of the project may not be reduced in  
26 scope, taking into account the project plan, design, and specifications and  
27 quality of materials.

1           **SECTION 3.** 24-103-202.3 (4), Colorado Revised Statutes, is  
2 amended to read:

3           **24-103-202.3. Competitive sealed best value bidding.**  
4 (4) SUBJECT TO THE CONDITION SPECIFIED IN SECTION 24-103-210(1), the  
5 contract shall be awarded with reasonable promptness by written notice  
6 to the low responsible bidder whose bid meets the requirements and  
7 criteria set forth in the invitation for bids except as otherwise provided for  
8 certain low tie bids under section 24-103-202.5.

9           **SECTION 4. Act subject to petition - effective date.** This act  
10 shall take effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly (August  
12 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a  
13 referendum petition is filed pursuant to section 1 (3) of article V of the  
14 state constitution against this act or an item, section, or part of this act  
15 within such period, then the act, item, section, or part shall not take effect  
16 unless approved by the people at the general election to be held in  
17 November 2012 and shall take effect on the date of the official  
18 declaration of the vote thereon by the governor.