A BILL FOR AN ACT

CONCERNING THE PROCUREMENT OF CONSULTING ENGINEER SERVICES
FOR DEPARTMENT OF TRANSPORTATION CONSTRUCTION PROJECTS.

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 requires the department of transportation (CDOT) to procure construction management and construction engineering services to be provided by a consulting engineer for a CDOT construction project through a fixed bid for all services to be provided by the consulting engineer for the project and prohibits CDOT from paying the consulting
engineer by the hour.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) When the department of transportation contracts with a consulting engineer for construction management and construction engineering services for a construction project, it typically pays the consulting engineer by the hour instead of requiring the consulting engineer to submit a fixed bid for all services to be provided for the project.

(b) Both the department of transportation and the general contractor for a construction project have a strong interest in successfully completing the project as quickly and efficiently as possible because completing the project quickly and efficiently:

(I) Saves the department money that the department can use to complete other projects and provide a safer and more effective transportation system; and

(II) Allows the general contractor, who typically must submit a fixed bid for the completion of the project in accordance with specified performance requirements and deadlines, to avoid penalties for failing to complete the project in accordance with the requirements and deadlines, devote more resources to other projects, make more money, and provide more jobs for Colorado workers.

(c) When the department of transportation contracts with a consulting engineer for construction management and construction engineering services for a construction project and pays the consulting engineer by the hour.
engineer by the hour, the consulting engineer has a financial incentive to work as many hours as possible. This incentive is at odds with the interest of the department and the general contractor in successfully completing the project as quickly and efficiently as possible because the general contractor's ability to successfully complete the project depends in part on the consulting engineer's ability to competently and efficiently provide construction management and construction engineering services and expeditiously obtain required approvals from the department for any project changes that the consulting engineer recommends.

(d) The efficiency and accountability committee of the department of transportation is charged with helping the transportation commission and the department execute their duties efficiently by periodically recommending means by which the commission and the department may execute their duties more efficiently.

(e) It is necessary and appropriate to require the efficiency and accountability committee to study the manner in which the department of transportation procures construction management and construction engineering services from consulting engineers, determine whether improvements can be made to better align consulting engineer incentives with the interests of the department and general contractors in successfully completing department projects as quickly and efficiently as possible, and recommend appropriate process improvements, including potential statutory changes, to the commission and the executive director of the department and to require the department to report on the recommendations made to its legislative oversight committees.

SECTION 2. In Colorado Revised Statutes, 43-1-106, add (17)(b.5) as follows:
43-1-106. Transportation commission - powers and duties -

repeal. (17) (b.5) (I) The efficiency and accountability committee
shall study and report to the executive director and the
commission its findings and any recommendations regarding the
following issues relating to consulting engineer contracts:

(A) Implementation of fixed bid procurement in lieu of bids
based on hourly charges;

(B) The quality assurance process;

(C) The revolving door of retired department employees
going to work for consultants;

(D) Incentives for closing out the contracts, early
project completion, and timely problem resolution; and

(E) Project staffing and implementation of the portion of
the department memorandum "Work Plan for Consistent CDOT
and Consultant Construction Project Administration" under
the heading "Measurements in Fiscal Year 2015".

(II) The department shall annually report to the joint
committees of reference of the house of representatives and the
senate to which the department of transportation is assigned
pursuant to section 2-7-203 (1) as part of the hearing required by
section 2-7-203 (2)(a) regarding the findings and any
recommendations reported as required by subsection (17)(b.5)(I)
of this section and the position of the department with respect
to the findings and any recommendations.

SECTION 3. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.