BILL TOPIC: "Waive 6-month Cap Constr Encumbrance Deadline"

A BILL FOR AN ACT

101 CONCERNING THE WAIVER OF THE SIX-MONTH ENCUMBRANCE
102 DEADLINE FOR PROFESSIONAL SERVICES CONTRACTS ENTERED
103 INTO FOR CAPITAL CONSTRUCTION PROJECTS. <{This could be
tightened up depending on what the CDC would like to do with
105 this issue.}>)

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/.)

Capital Development Committee. Current law requires the capital development committee (CDC) to recommend to the controller...
that the deadline be waived for capital construction projects that cannot meet the 6-month encumbrance deadline for professional services contracts entered into for capital construction projects. The bill eliminates the CDC's involvement in the waiver requests and instead leaves the controller with the sole authority to approve such waiver requests.

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

SECTION 1. In Colorado Revised Statutes, 24-30-1404, amend (7)(a) as follows:

24-30-1404. Contracts. (7)(a) Except as provided in subsections (7)(b), (7)(c), (7)(e), (7)(f), (7)(g), and (7)(h) of this section, any professional services contract entered into pursuant to the provisions of this part 14 shall be executed and encumbered within six months after the date on which the appropriation that includes the project for which the professional services are required becomes law. If no professional services contract is required for a particular project, the contract with the contractor for the project shall be entered into within six months after the appropriation. If a state agency or state institution of higher education determines that the nature of a particular project is such that the deadlines imposed by this section cannot be met, the state agency or state institution of higher education may request the capital development committee to recommend to the controller that the deadline be waived for that project. The controller in consultation with the capital development committee may grant a waiver from the deadlines. This subsection (7) shall not apply to projects under the supervision of the department of transportation. This subsection (7) shall not affect any priority established pursuant to section 44-40-111(11) in the general appropriation act for expenditures for projects to be financed from net lottery proceeds appropriated for capital construction.
Here's an example of how the 6-month encumbrance deadline waiver could be addressed. The CDC could just choose to get itself out of the business of being involved in those waivers and leave it up to the controller to make those decisions.

Another option would be to eliminate all of subsection (7) and not require the money to be encumbered in 6 months. I believe Mr. Pogue will have some information for you as to why this subsection was adopted in 1989.

FYI, 24-30-1404 (7)(h) already specifies that the 6-month encumbrance deadline does not apply to IT projects that are overseen by the JTC.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to professional services contracts entered into on or after the applicable effective date of this act.