

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3896S.10T
Bill No.: Truly Agreed To and Finally Passed SS No. 3 for SCS for SB 758
Subject: Administration, Office of; Contracts and Contractors; Political Subdivisions;
Public Officers; State Departments
Type: Original
Date: June 2, 2022

Bill Summary: This proposal modifies various provisions relating to bidding procedures for certain public projects for facilities.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on FTE	0	0	0

- ☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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Section 8.250 – Public Contracts

Officials from the **Office of Administration - Facilities Management, Design and Construction (OA-FMDC)** state that for previous versions of this bill FMDC noted a cost savings due to changes to the requirements for newspaper advertising. However, this version of the bill no longer removes the newspaper advertising requirements. Instead, it adds a requirement that FMDC advertise on its website or on an electronic procurement system. As FMDC currently advertises both in the newspaper, on its website and on MoBUYS, there is no impact from this section.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Sections 8.677 and 8.679 – Public project delivery methods

OA-FMDC states this proposal will give OA-FMDC the ability to utilize the construction manager-at-risk and design-build procurement methods for design and construction of capital improvement projects. This bill would have given the state the ability to utilize additional modern, industry standard procurement tools for design and construction that are currently used in the private sector as well as by the political subdivisions of the state. This bill would have given the state additional flexibility for the design and construction of state projects, which FMDC anticipated would increase efficiency and reduce risk, administrative costs, and construction timeframes for some projects. This could be particularly important given the number of American Rescue Plan Act (ARPA) projects that the state will likely need to complete in the coming years.

This proposal will require OA-FMDC to establish new procurement methods and procedures, and create new contract documents for construction management-at-risk and design-build procurement. FMDC estimates that this would have taken approximately 1,500 hours of contract staff time (\$37 per hour totaling \$55,500) and an additional 250 hours of Legal Counsel time (\$42 per hour totaling \$10,500). FMDC anticipates that these impacts could have been absorbed with existing staff and resources.

Officials from the OA-FMDC assume the cost of this section of the proposal can be absorbed with existing staff and resources. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these sections.

OA-FMDC also stated that while there would be initial effort by FMDC's Contracts Unit and

the OA legal team in the first year or two of implementation, FMDC anticipates that these costs would be offset by time savings within its Project Management Unit and Construction Administration Unit. This would also help FMDC manage capacity issues if a larger number of projects need to be completed in a shorter time frame than what FMDC typically experiences. For example, FMDC currently has the capacity to manage around \$700 million in projects over a four-year period or \$350 million in a two-year period with existing Project Management and Construction Administration staff. If FMDC receives funding for several large projects that bring its project total to \$850 million, FMDC would need an estimated \$3 million for additional staff over the next 4 years. However, because the increased workload is short-term in nature, it would be beneficial for FMDC to have the ability to pay a contractor for these services rather than hiring additional staff or delaying project completion. The actual fiscal impact of this bill is unknown as it will depend upon a number of factors including the number and type of projects FMDC receives funding for, construction prices, and whether these new procurement methods are utilized consistently.

Officials from the **Department of Corrections (DOC)** state this proposal modifies various provisions relating to public contracts. It amends the language in chapter 8 (dealing with public construction contracts) and chapter 34 (public procurement), which apply to the department's procurement practices. The bill removes the requirement to post bid opportunities in the newspaper and allows the publication of notice to appear on the public entity's website. The bill also amends the requirements for bidding manager-as-agent and design-build construction contracts. Finally, the bill changes the language of 34.100 to allow the commissioner of OA to delegate single feasible source authority to an agency for contracts totaling \$10,000 and below, instead of \$5,000 and below.

There is a potential unknown cost savings, as these changes could speed up the process for construction and construction projects, as well as potentially increase the efficiency of the procurement and construction processes.

Officials from the **Office of Administration - Budget and Planning** state since there is a "Guaranteed Maximum Price" set when using a Construction Manager-At-Risk model, there could be some cost savings for state projects utilizing this method since the contractor assumes the liability if there are overrunning costs. Similarly, the design-build model could produce cost-savings given the potential for increased efficiency working through one contractor instead of several.

Oversight assumes there would be some positive benefit to the state as a result of modifying various provisions relating to public contracts and public procurement methods in this proposal; however, Oversight notes the language in the proposal is permissive in nature and therefore will not reflect these benefits in the fiscal note.

Bill as a whole

Officials from the **Attorney General's Office**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Natural Resources**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety (Alcohol & Tobacco Control, Fire Safety, Gaming Commission, Missouri Highway Patrol, Missouri National Guard, State Emergency Management Agency and Veterans Commission)**, the **Office of the Governor**, the **Joint Committee on Public Employee Retirement**, the **Missouri Lottery Commission**, the **Missouri Consolidated Health Care Plan**, the **Department of Agriculture**, the **Missouri Department of Conservation**, the **Missouri Ethics Commission**, the **Missouri House of Representatives**, the **Department of Transportation**, the **Office of Prosecution Services**, the **Office of Administration (Administrative Hearing Commission)**, the **Office of the State Courts Administrator**, the **Office of the State Auditor**, the **Missouri Senate**, the **Office of the State Public Defender**, the **Office of the State Treasurer** and the **State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations for this proposal.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Officials from the **Kansas City** and **St. Louis Budget Division** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Officials from the **Department of Commerce and Insurance**, the **Department of Health and Senior Services**, the **Department of Mental Health**, the **Department of Public Safety – Office of the Director** and the **Department of Social Services** defer to the Office of Administration for the potential fiscal impact of this proposal.

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Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that

this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, counties, colleges and universities were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal modifies various provisions relating to bidding procedures for certain public projects for facilities.

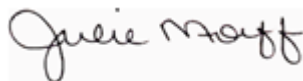
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

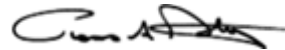
Department of Commerce and Insurance
 Department of Economic Development
 Department of Elementary and Secondary Education
 Department of Higher Education and Workforce Development
 Department of Health and Senior Services

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Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety
Department of Social Services
Office of the Governor
Joint Committee on Administrative Rules
Missouri Lottery Commission
Legislative Research
Oversight Division
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Missouri Department of Transportation
Missouri Office of Prosecution Services
Office of Administration
Facilities Management, Design and Construction
Office of the State Courts Administrator
Office of the State Auditor
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
State Tax Commission
Kansas City
St. Louis Budget Division



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June 2, 2022



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