

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3834S.08T
 Bill No.: Truly Agreed To and Finally Passed SS for SCS for SB 916
 Subject: Civil Procedure; Contracts and Contractors; Insurance - General; Liability; Political Subdivisions; Sovereign or Official Immunity; State Departments; Transportation; Department of Transportation
 Type: Original
 Date: June 18, 2026

Bill Summary: This proposal modifies provisions relating to sovereign immunity.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
State Road Fund	(\$2,500,000 to \$4,750,000)	(\$3,000,000 to \$5,700,000)	(\$3,000,000 to \$5,700,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$2,500,000 to \$4,750,000)	(\$3,000,000 to \$5,700,000)	(\$3,000,000 to \$5,700,000)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
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 2027	FY 2028	FY 2029
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§537.600 – Immunity for Private Contractors Acting within the Scope of a Government Contract Awarded by MoDOT

Officials from the **Missouri Department of Transportation (MoDOT)** state TAFP SB 916 will likely increase litigation costs for the Missouri Highways and Transportation Commission (MHTC) by shifting litigation costs to the Missouri taxpayers and causing the MHTC to be in an adversarial litigation posture with its construction partners.

The bill contemplates three separate and distinct phases of construction: 1) after a construction project contract has been signed but before construction has begun; 2) active construction; and 3) after MoDOT has accepted a project. Subsection 3 of the bill states, in part, that MoDOT shall be solely liable for injury or death during phases 1 and 3, with four exceptions as it relates to phase 3.

TAFP SB 916 also prohibits the MHTC from requiring contractors to agree to indemnify or defend the MHTC. Currently, when the MHTC is sued in a personal injury or wrongful death case arising out a work zone crash, it tenders the defense of the case to the contractor responsible for the work zone. The MHTC would be in the active work zone injury lawsuit along with its construction partners, and would be responsible for legal fees and costs separately. These fees and costs, through trial, average between \$250,000 to \$450,000 per case.

There are twenty (20) pending cases that have been tendered. Regarding the number of tendered cases per year, there were thirteen (13) tendered in 2025 and three (3) tendered in 2026 thus far. MoDOT expects a similar number of work zone cases this year.

MoDOT expects the average fiscal impact of this bill to be \$3M-\$5.7M per year to the State Road Fund (1320).

Oversight has no information to the contrary. Therefore, Oversight will present MoDOT's cost as a range of \$3M to \$5.7M annually to the State Road Fund.

Officials from the **Office of Administration (OA)** state the proposed legislation will require OA Purchasing to revise the contractual language regarding contractor liability including rewriting other general contractual language and provide such language to the state agencies for use as well as update its internal procurement documents.

OA-Purchasing believes that the impact of this bill is less than \$10,000. At this time, it is believed the additional staff time and resources can be absorbed by OA-Purchasing. However, if there are multiple pieces of legislation passed where OA-Purchasing has responded that the costs

can be absorbed, OA-Purchasing would need to reevaluate to see if additional staff and associated expenses would then be required.

Oversight does not have any information to the contrary. Oversight assumes OA-Purchasing receives core funding to cover minimal expenditures. Oversight further assumes OA-Purchasing can absorb the minimal fiscal impact of this proposal within current appropriations and will present no fiscal impact for this agency for these provisions.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal could be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation costs.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

Responses regarding the proposed legislation as a whole

Officials from the **Department of Commerce, Department of Labor and Industrial Relations, Department of Social Services, and Office of the State Courts Administrator** 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.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
STATE ROAD FUND (1320)			
<u>Cost – MoDOT (\$537.600) Potential increase in litigation costs p.3</u>	(\$2,500,000 to <u>\$4,750,000</u>)	(\$3,000,000 to <u>\$5,700,000</u>)	(\$3,000,000 to <u>\$5,700,000</u>)
ESTIMATED NET EFFECT ON THE STATE ROAD FUND	(\$2,500,000 to <u>\$4,750,000</u>)	(\$3,000,000 to <u>\$5,700,000</u>)	(\$3,000,000 to <u>\$5,700,000</u>)

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

There could be a direct fiscal impact to small businesses who operate under a governmental contract as a result of this proposal.

FISCAL DESCRIPTION

SOVEREIGN IMMUNITY FOR MODOT PRIVATE CONTRACTORS (\$537.600)

Currently, public entities are immune from liability for compensatory damages resulting from negligence, except as expressly waived in law. This act modifies the express waivers to include injuries directly resulting from negligence caused by an agent of the Missouri Department of Transportation ("Department") arising out of the operation of motor vehicles within the course of their employment and for injuries caused by the condition of the public entity's property if the negligence of an agent of the Department created the dangerous condition or had actual or constructive notice of the dangerous condition in order to take measures to protect against the dangerous condition.

Furthermore, this act creates a statutory cause of action for damages against an agent of the Department for claims arising from the design, condition, or maintenance of a Department project and abrogates any other common law claims against a private contractor, subcontractor, or engineer, or employee thereof, for such claims. The cause of action is established when the damages occur after execution of a contract to perform work but prior to the commencement of construction activities on the project site and for when construction activities on the project site are approved and accepted by the Department. The Department shall be solely liable for personal injury or death arising out of instances during such periods of time.

The immunity provided by this statutory cause of action shall not apply when:

- (1) The work is so defective that it creates an imminent danger to third parties;
- (2) A defect in the work was concealed and not discoverable by a reasonable inspection by the State Highways and Transportation Commission ("Commission");
- (3) The agent knew of the dangerous condition and did not disclose it to the Commission; or
- (4) The plans or specifications followed were so imperfect or improper that the agent should have known the work to be done would result in an unsafe condition.

Furthermore, the Missouri Standard Specifications for Highway Construction, or its successor, as published by the Commission shall not include provisions requiring a contractor to indemnify or defend the state, the Commission, or employees or agents of the Missouri Department of Transportation. No contractor of the Commission shall be required to agree to an indemnification or a duty to defend provision.

PURCHASE OF LIABILITY INSURANCE FOR SOVEREIGN IMMUNITY CLAIMS (§537.610.1)

As it relates to political subdivisions purchasing liability insurance for tort claims made against the political subdivision, this act defines the term "purchase" to refer only to the direct acquisition of insurance coverage by a governing body and not any indirect action by contract or otherwise.

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

Attorney General's Office
Department of Commerce and Insurance
Department of Labor and Industrial Relations
Department of Social Services
Missouri Department of Transportation
Office of Administration
Office of the State Courts Administrator
Office of the Secretary of State



Julie Morff
Director
June 18, 2026

HWC:LR:OD



Jessica Harris
Assistant Director
June 18, 2026