

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3477-02  
Bill No.: SB 849  
Subject: Employees-Employers, Roads and Highways, Salaries, Sewers and Sewer Districts.  
Type: Original  
Date: January 24, 2006

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of Administration, Division of Facilities Management, Design and Construction, the Department of Elementary and Secondary Education, the Department of Labor and Industrial Relations, the Department of Transportation, Lincoln University, Missouri State University, the University of Missouri, the Metropolitan Community College, the St. Charles Community College, Hickory County, Jefferson County, the City of West Plains, the Columbia Public School District, and the Parkway School District** assume this proposal would have no impact on their organizations.

Officials from **Truman State University** stated they are not able to determine the impact this proposal might have on their organization.

Officials from the **Office of Administration, Division of Purchasing and Materials Management (DPMM)** assume the proposal would require DPMM to develop an affidavit for bidders to sign stating they would not participate in any of the activities stated in the proposal if awarded a contract.

ASSUMPTION (continued)

Officials from the **Department of Conservation (MDC)** assume the proposed legislation could have a positive effect on MDC funds due to lower bids on some contracts. The exact amount of impact is unknown.

**Oversight** assumes that any impact from the proposal would be minimal.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<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.

## DESCRIPTION

This proposal would create the "Fairness in Public Construction" Act. The state and its political subdivisions, and any agency or instrumentality thereof, when engaged in procuring products or services or letting contracts for manufacture of public works, or overseeing such procurement, construction, or manufacture, would be required to ensure that bid specifications, project agreements, and other controlling documents do not:

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects;
2. Discriminate against bidders, offerors, contractors, or subcontractors for entering or refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects;
3. Require or prohibit any bidder, offeror, contractor, or subcontractor to enter into, adhere to, or enforce any agreement that requires its employees as a condition of employment to become members of or affiliated with a labor organization or pay dues or fees to a labor organization, over an employee's objection, in excess of the employee's share of labor organization costs relating to collective bargaining, contract administration, or grievance adjustment.

Nothing in the proposal would prohibit employers or other parties covered by the National Labor Relations Act from entering into agreements or engaging in any other activity arguably protected by law, nor would any aspect of the proposal be interpreted in such a way as to interfere with the labor relations of parties covered by the National Labor Relations Act.

The state, its political subdivisions, and any agency or instrumentality thereof could not issue grants or enter into cooperative agreements for construction projects, a condition of which requires that bid specifications, project agreements, or other controlling documents pertaining to the grant or cooperative agreement which contain any of the elements specified above.

The state, its political subdivisions, and any agency or instrumentality thereof would exercise such authority as may be required to preclude a grant recipient or party to a cooperative agreement from imposing any of the elements above in connection with any grant or cooperative agreement awarded or entered into. Nothing in the proposal would prohibit contractors or subcontractors from voluntarily entering into agreements described above.

DESCRIPTION (continued)

Any interested party, including a bidder, offeror, contractor, subcontractor, or taxpayer, would have standing to challenge any bid specification, project agreement, controlling document, grant, or cooperative agreement which violates the provisions of the proposal, and would be awarded court costs and attorney's fees if the interested party prevails.

It is further declared to be the policy of the state of Missouri that public works construction projects be awarded to and completed by contractors and subcontractors on a fair and competitive basis.

Except on public projects built under the general wage order or heavy construction work under the annual wage order, not including the construction of water or sewer lines, each contractor and subcontractor would be required to file with the contracting public body upon completion of the public work and prior to final payment therefor an affidavit stating that he had fully complied with the provisions and requirements of this proposal, and he had paid all covered employees the prevailing rates specified for the public work, without benefit of a wage subsidy, bid supplement, or rebate received, directly or indirectly, from another project, from employees, labor organizations, or any other third party on the project for which the affidavit is signed.

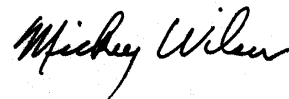
It would be unlawful for any employer to receive, directly or indirectly from another project, any wage subsidies, bid supplements, or rebates from any employees or labor organization for such construction project or from any third party, in whole or in part, to subsidize labor costs on the construction project.

No public body, officer, official, member, agent, or representative authorized to contract for public works could award a contract for the construction of an improvement or disburse any funds on account of the construction of a public improvement unless such public body first has received from the contractor or subcontractor who will perform the work an affidavit stating that he will not participate, either directly or indirectly, in any job targeting programs, bid supplement programs, market recovery programs, or any other program or device providing wage subsidies, bid supplements, or rebates that would subsidize the labor costs on the project. Any contractor or subcontractor who submits a false affidavit as required would be in violation of this proposal. Any contractor or subcontractor who is found to be in violation of this section would be required to pay to the public body twice the amount of the subsidy received.

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

Office of Administration  
    Division of Facilities Management, Design and Construction  
    Division of Purchasing and Materials Management  
Department of Conservation  
Department of Elementary and Secondary Education  
Department of Labor and Industrial Relations  
Department of Transportation  
Lincoln University  
Missouri State University  
Truman State University  
University of Missouri  
Metropolitan Community College  
St. Charles Community College  
Hickory County  
Jefferson County  
City of West Plains  
Columbia Public School District  
Parkway School District



Mickey Wilson, CPA  
Director  
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