

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1627-01  
Bill No.: SB 311  
Subject: Contracts and Contractors; Liability  
Type: Original  
Date: March 9, 2009

Bill Summary: Would modify the law that limits indemnity agreements in construction work contracts.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<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>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<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 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</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 FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator**, the **Office of Administration, Administrative Hearing Commission**, and **Division of Facilities management, Design and Construction, Linn State Technical College**, the **Metropolitan Community Colleges**, and **St. Louis County**, assume this proposal would have no fiscal impact on their organizations.

Officials from the **Department of Elementary and Secondary Education** deferred to local school district officials as to the fiscal impact to school districts.

Officials from the **City of Centralia** assume this proposal could have an unknown and unpredictable cost for project-specific insurance policies as a substitute for "additional named" provisions in project contract requirements.

Officials from the **City of Kansas City (KC)** assume this proposal could have a negative fiscal impact on the city but such impact is impossible to quantify.

KC officials stated that the net effect of the proposal would be to eliminate the "intermediate" form of indemnity currently available to the city. The current statutory restrictions limit the contractor's liability exposure to the specific amounts of insurance required; the contractor is able to include the costs of insurance in the contract price. The proposed changes would restrict the level of indemnity the city can include in its contracts to the "limited" form, under which the contractor is responsible for its own negligence only -- "to the extent caused" by the contractor.

**Oversight** notes that this proposal would limit the indemnity coverage for a contract owner's liability that the owner can require a contractor to provide in a construction contract. Oversight assumes that the contractor would no longer provide or purchase such insurance coverage. This proposal could potentially reduce the cost of a construction contract by the amount of such policy premium; the project owner would potentially purchase comparable coverage. Any contract savings would be offset by additional insurance cost.

Officials from the **City of West Plains** assume this proposal could have a negative fiscal impact to their organization for liability coverage on utility poles with multiple contractors' facilities installed.

ASSUMPTION (continued)

**Oversight** assumes this proposal would have no fiscal impact to the state government and that any impact to local governments would be minimal and could be absorbed with existing resources. Oversight will indicate no fiscal impact for this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<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.

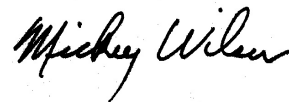
FISCAL DESCRIPTION

This proposal would appear to have no fiscal impact.

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 State Courts Administrator  
Office of Administration  
    Administrative Hearing Commission  
    Division of Facilities management, Design and Construction  
Department of Elementary and Secondary Education  
Linn State Technical College  
Metropolitan Community Colleges  
St. Louis County  
City of Centralia  
City of Kansas City  
City of West Plains



Mickey Wilson, CPA  
Director  
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