

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5101-01
Bill No.: SB 789
Subject: Contracts and Contractors; Political Subdivisions; Natural Resources -
 Department of
Type: Original
Date: January 29, 2016

Bill Summary: This proposal modifies provisions relating to construction contracts entered into by political subdivisions.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| | | | |
| Total Estimated Net Effect on General Revenue | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|-----------------------|-----------------------|-----------------------|
| FUND AFFECTED | FY 2017 | FY 2018 | FY 2019 |
| Local Government | \$0 or Unknown | \$0 or Unknown | \$0 or Unknown |

FISCAL ANALYSIS

ASSUMPTION

Officials at **Northwest Missouri State University** assume a financial impact from this proposal, but it is difficult to quantify. This proposal will allow Construction Manager at Risk (CM) as well as a Design Build process. There will be a learning process that will be established to follow the regulations. It is unknown at this time if there is any future project in which a CM or Design Build would be used.

Oversight assumes the local political subdivisions would not use CM, the Design Build process or the Specialty Design Construction process unless it would either save money, provide some other benefit, or be absorbed within current budget appropriations. Therefore, Oversight will assume the proposal could have a positive fiscal impact to local political subdivisions from this proposal and will range the fiscal impact from \$0 to an unknown amount of savings.

Officials at the **Department of Higher Education**, the **Department of Conservation**, the **Department of Labor and Industrial Relations**, the **Office of Administration's Division of Purchasing and Materials Management** and **Division of Facilities Management, Design and Construction**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Economic Development**, the **Department of Health and Senior Services**, the **Department of Natural Resources** and the **Missouri Department of Transportation** each assume no fiscal impact to their respective agencies from this proposal.

Officials at **Missouri State University**, the **University of Missouri System**, the **University of Central Missouri**, the **State Technical College**, the **Metropolitan Community College**, the **City of Kansas City** and the **Metropolitan St. Louis Sewer District** each assume no fiscal impact to their respective entities from this proposal.

Officials at the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Columbia, Dardenne Prairie, Des Peres, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Jefferson City, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Joseph, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for fiscal impact.

ASSUMPTION (continued)

Officials at the following colleges: Crowder, East Central Community College, Harris-Stowe, Jefferson College, Lincoln University, Moberly Area Community College, Missouri Southern State University, Missouri Western State University, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College and Truman State University did not respond to **Oversight's** request for fiscal impact.

| | | | |
|---|---------------------|------------|------------|
| <u>FISCAL IMPACT - State Government</u> | FY 2017 (10 Mo.) | FY 2018 | FY 2019 |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

| | | | |
|---|---------------------|---------|---------|
| <u>FISCAL IMPACT - Local Government</u> | FY 2017 (10 Mo.) | FY 2018 | FY 2019 |
|---|---------------------|---------|---------|

LOCAL POLITICAL SUBDIVISIONS

| | | | |
|--|-----------------------|-----------------------|-----------------------|
| <u>Savings - Local Political Subdivisions - relating to construction contracts</u> | <u>\$0 or Unknown</u> | <u>\$0 or Unknown</u> | <u>\$0 or Unknown</u> |
|--|-----------------------|-----------------------|-----------------------|

ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS \$0 or Unknown \$0 or Unknown \$0 or Unknown

FISCAL IMPACT - Small Business

There could be a direct fiscal impact to small businesses as a result of this proposal.

FISCAL DESCRIPTION

This act modifies provisions relating to construction contracts.

CONSTRUCTION MANAGER-AT-RISK CONTRACTS - Section 67.5050

This act allows political subdivisions to use the construction manager-at-risk method for construction projects. If the project is a civil works project, the project cost must exceed \$2 million. Other projects must exceed \$7 million. Before selecting a construction manager-at-risk, or during the selection process, the political subdivision must select an engineer or architect to prepare the construction documents.

FISCAL DESCRIPTION (continued)

The political subdivision must use a two-step process to select the construction manager-at-risk. This act outlines the necessary procedures for the process. The political subdivision may determine how to publish its notice that it is seeking a construction manager-at-risk. This act requires the political subdivision to publicly open and read aloud the names of the construction managers for each step, and to evaluate and rank each bidder within 45 days of the opening of the proposals or qualifications. The political subdivision must select the construction manager-at-risk that offers the best value. If the political subdivision fails to negotiate a satisfactory contract with the selected construction manager-at-risk, the political subdivision must negotiate with the next highest ranked construction manager-at-risk.

This act requires the construction manager-at-risk to publicly bid its subcontracts for the performance of all major elements of the work. If the construction manager-at-risk seeks to perform the work, it must be selected by the political subdivision and provide the best value. Both the political subdivision and the construction manager-at-risk evaluate the bids, and the political subdivision may compensate the construction manager-at-risk if the political subdivision requires a different bid be accepted than the one recommended by the construction manager. This act specifies the procedures for when a selected subcontractor defaults in the performance of its work. These provisions do not apply to the St. Louis Metropolitan Sewer District, or any city or county with a charter form of government. These provisions expire on September 1, 2025.

DESIGN BUILD PROJECTS - Section 67.5060

This act allows political subdivisions to enter into contracts for design-build projects. Definitions are provided for "design-build", "design-build contract", "design-builder", "design-build project", "design criteria consultant", "design criteria package", "design professional services", "proposal", "qualifications-based selection", "request for proposals", and "stipend". This act requires political subdivisions to employ a design criteria consultant. The act also requires political subdivisions to advertise the request for proposals in a certain manner and include certain information in the request for proposals.

This act creates a three-stage process for the solicitation of proposals. The political subdivision must award the project to the highest-scoring bidder. If the political subdivision determines it is not in its best interest to proceed with the project with the highest scoring bidder, the political subdivision must reject all the proposals. All the design-builders who submitted bids must receive stipends, and the highest-scoring design-builder must receive double the stipend. If all the proposals are rejected, the political subdivision may solicit new proposals using different qualifications, costs, and criteria. Design-builders who accept stipends give the political subdivision a nonexclusive right to use their designs and the design-builders have no liability for the use of the designs.

FISCAL DESCRIPTION (continued)

Under this act, the payment requirements that apply to public works contracts also apply to design-build projects. Any person or firm providing architectural, engineering, landscape architecture, or land-surveying services must be licensed. The design-builder is exempt from the requirements involving certificates of registration or authority if the architectural, engineering, or land-surveying services are performed by subcontractors who are properly licensed. These provisions do not apply to the St. Louis Metropolitan Sewer District, or any city or county with a charter form of government. The design-build provisions expire on September 1, 2025.

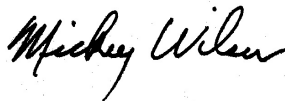
SPECIALTY DESIGN CONSTRUCTION PROJECTS - Section 67.5070

This act sets forth certain guidelines for political subdivisions entering into specialty construction design contracts for engineering, design, and construction of a wastewater or water treatment project. The Department of Natural Resources is precluded from excluding from consideration specialty construction design contracts for funding provided by the Water and Wastewater Loan Fund. Furthermore, in disbursing community development block grants from certain federal programs, the Department of Economic Development shall not reject wastewater or water treatment projects solely for utilizing specialty construction design contracts.

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

Northwest Missouri State University
Department of Higher Education
Department of Conservation
Department of Labor and Industrial Relations
Office of Administration
 Division of Purchasing and Materials Management
 Division of Facilities Management, Design and Construction
Department of Insurance, Financial Institutions and Professional Registration
Department of Economic Development
Department of Health and Senior Services
Missouri Department of Transportation
Department of Natural Resources
Missouri State University
University of Missouri System
University of Central Missouri
State Technical College
Metropolitan Community College
City of Kansas City
Metropolitan St. Louis Sewer District
City of Liberty



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January 29, 2016

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