

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5857-03
Bill No.: Perfected HCS for HB 2376
Subject: Construction and Building Codes; Contracts and Contractors
Type: Original
Date: April 4, 2016

Bill Summary: This proposal modifies provisions of law relating to construction management.

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 10 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 to Unknown	\$0 to Unknown	\$0 to Unknown

FISCAL ANALYSIS

ASSUMPTION

Sections 67.5050, 67.5060

Officials at the **Metropolitan St. Louis Sewer District** assume some savings from this proposal, but are unable to quantify that savings.

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

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

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 following counties: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Christian, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Holt, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Maries, Marion, McDonald, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, Shelby, St. Charles, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

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,

ASSUMPTION (continued)

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.

Officials at the following colleges: Crowder, East Central Community College, Harris-Stowe, Jefferson College, Lincoln University, Metropolitan Community College, 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, Truman State University and the University of Missouri did not respond to **Oversight's** request for fiscal impact.

House Amendment 1 with House Amendment 1 to House Amendment 1 - Section 644.180

In response to similar legislation this year, Perfected HCS for HB 1713, officials at the **Department of Natural Resources** and **Department of Agriculture** each assumed this proposal will not have a fiscal impact on their respective organizations.

In response to similar legislation this year, Perfected HCS for HB 1713, officials at **Department of Health and Senior Services** and **Department of Conservation** each assumed the proposal would not have a fiscal impact on their respective organizations.

In response to similar legislation this year, Perfected HCS for HB 1713, officials at the cities of **Fulton** and **Kansas City** each assumed this proposal will not have a fiscal impact on their respective organizations.

In response to similar legislation this year, Perfected HCS for HB 1713, officials at the counties of **Mississippi** and **St. Louis** each assumed this proposal will not have a fiscal impact on their respective organizations.

In response to similar legislation this year, Perfected HCS for HB 1713, officials at the **Metropolitan St. Louis Sewer District** assumed the proposal would not have a fiscal impact on their organization.

In response to similar legislation this year, Perfected HCS for HB 1713, officials at the **Callaway County** assumed the proposal would not have a fiscal impact to their organization.

ASSUMPTION (continued)

House Amendment #2 - Sections 197.065, 536.031

In response to similar legislation this year, HCS for HB 2402, officials from the **Department of Social Services (DSS), MO HealthNet Division (MHD)** and **Division of Legal Services** stated MO HealthNet bases hospital reimbursement for a given year on the fourth prior year cost report. Any requirements resulting from these Department of Health and Senior Services (DHSS) regulations would be effective for hospitals beginning August 28, 2016 and any changes in hospital expenditures would begin to be reflected in 2016 or 2017 cost reports. MO HealthNet would use 2016 and 2017 cost reports to establish reimbursement for State Fiscal Year (SFY) 20 and SFY 21 respectively. Therefore, there would not be a fiscal impact to the MHD for SFY 17, SFY 18, or SFY 19, but starting in SFY 20 there could be a fiscal impact to Medicaid due to the requirements set forth by DHSS.

Oversight notes since it is unknown what DHSS' requirements could be, it is unknown whether there would be Medicaid costs beginning in SFY 20. Since these costs are speculative at this time, Oversight is not presenting these costs in the fiscal note.

In response to similar legislation this year, HCS for HB 2402, officials from the **University of Missouri Health Care** stated they have reviewed the proposed legislation and determined that as written, it should not create additional expenses in excess of \$100,000 annually.

Oversight assumes this is the materiality threshold for the UM Health Care and that any costs incurred by UM can be absorbed within current resource levels.

In response to similar legislation this year, HCS for HB 2402, officials from the **Joint Committee on Administrative Rules (JCAR)** stated the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

In response to similar legislation this year, HCS for HB 2402, officials from the **Department of Health and Senior Services** and the **Cass Regional Medical Center** each assumed the proposal would not fiscally impact their respective agencies.

In response to similar legislation this year, HCS for HB 2402, officials from the from the **Hermann Area District Hospital** stated they feel the proposal may have some savings because there will no longer be a duplication of codes so compliance would be simpler.

Oversight notes the Hermann Area District Hospital's response did not indicate whether the savings would be significant and, therefore, assumes the statement "some savings" indicates a minimal fiscal impact.

ASSUMPTION (continued)

In response to similar legislation this year, HCS for HB 2402, officials from the **Office of the Secretary of State (SOS)** stated 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 \$2,500. 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 the 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the following **hospitals**: Barton County Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, Cooper County Hospital, Excelsior Springs Medical Center, Golden Valley Memorial Hospital, Hermann Area District Hospital, Macon County Samaritan Memorial Hospital, Putnam County Memorial Hospital and Washington County Memorial Hospital did not respond to **Oversight's** request for a statement of fiscal impact.

House Amendment #3 - Section 68.057

In response to similar legislation this year, HB 1760, officials at the **Office of the State Auditor**, the **Office of Administration's Division of Purchasing and Materials Management** and the **Missouri Department of Transportation** each assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation this year, HB 1760, officials at **St. Louis County** and the **City of Kansas City** each assumed no fiscal impact to their respective entities from this proposal.

Officials at Cooper County, Jefferson County, Marion County, New Madrid County, Lincoln County, the City of St. Louis and City of St. Joseph 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
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LOCAL POLITICAL SUBDIVISIONS

<u>Savings - Local Political Subdivisions - on Construction Management practices</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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FISCAL IMPACT - Small Business

This could have a direct fiscal impact to small businesses as a result of this proposal.

FISCAL DESCRIPTION

Sections 67.5050, 67.5060

The bill authorizes any political subdivision to use the construction manager-at-risk method, as defined in the bill, for a project. Before or concurrently with selecting a construction manager-at-risk, the political subdivision shall select or designate an engineer or architect who shall prepare the construction documents for the project and who shall comply with all state laws, as applicable. If the engineer or architect is not a full-time employee of the political subdivision, the political subdivision shall select the engineer or architect on the basis of demonstrated competence and qualifications. The bill specifies definitions for use in regulating design build projects.

In using a design-build contract, the political subdivision shall determine the scope and level of detail required to permit qualified persons to submit proposals in accordance with the request for proposals given the nature of the project. The design criteria consultant may evaluate construction as to the adherence to the design criteria. The consultant shall be selected and its contract negotiated in compliance with Sections 8.285 to 8.291, RSMo, unless the consultant is a direct employee of the political subdivision.

FISCAL DESCRIPTION (continued)

Criteria for notice and content regarding requests for proposals are specified in the bill. The political subdivision shall solicit proposals in a three-stage process. The bill describes these phases in detail.

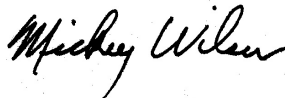
As an inducement to qualified design-builders, the political subdivision shall pay a reasonable stipend, the amount of which shall be established in the request for proposal, to each prequalified design-builder whose proposal is responsive but not accepted. Upon payment of the stipend to any unsuccessful design builder, the political subdivision shall acquire a nonexclusive right to use the design submitted by the design-builder, and the design-builder shall have no further liability for the use of the design. If the design-builder desires to retain all rights and interest in the design proposed, the design-builder shall forfeit the stipend. The payment bond requirements of Section 107.170 shall apply to the design-build project.

The bill does not apply to any metropolitan sewer district established under Article VI, Section 30(a) of the Constitution of Missouri, or any charter city or charter county governed by home rule under Article VI, Section 18 or 19 of the Constitution of Missouri. The authority to use construction manager-at-risk, design-build, and design-build contracts expires September 1, 2026. This proposal removes water plants, wastewater plants, water distribution and wastewater conveyance as examples of civil works projects under the definition of design-build projects. This proposal also allows for and defines specialty construction design contracts. This proposal specifies the types of projects a political subdivision may use the construction manager-at-risk method for. The proposal also sets out specific requirements for political subdivisions to follow when publishing the request for proposals or qualifications.

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 Material Management
Department of Health and Senior Services
Department of Higher Education
Department of Economic Development
Department of Labor and Industrial Relations
Department of Conservation
Department of Natural Resources
Department of Insurance, Financial Institutions and Professional Registration
St. Louis County
City of Kansas City
Northwest Missouri State University
University of Central Missouri
State Technical College of Missouri
Missouri State University
Metropolitan St. Louis Sewer District
Missouri Department of Transportation
Department of Agriculture
City of Fulton
Mississippi County
Callaway County
Department of Social Services
 MO HealthNet Division
 Division of Legal Services
University of Missouri Health Care
Joint Committee on Administrative Rules
Cass Regional Medical Center
Hermann Area District Hospital
Office of the Secretary of State
Office of the State Auditor



L.R. No. 5857-03
Bill No. Perfected HCS for HB 2376
Page 10 of 10
April 4, 2016

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