

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5857-05
Bill No.: Truly Agreed To and Finally Passed SS for SCS for HCS for HB 2376
Subject: Contracts and Contractors; Political Subdivisions; Transportation - Department of
Type: Original
Date: May 27, 2016

Bill Summary: This proposal relates 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 6 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 and 227.107

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

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

In response to a previous version, officials at the **City of Columbia**, **Missouri State University**, the **Callaway County Commission** and the **State Technical College of Missouri** each assumed no fiscal impact from this proposal.

Oversight assumes the local political subdivisions would not use Construction Management-at-risk or the Design Build 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.

<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 - on Construction Management practices</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill creates new provisions relating to construction management which enable political subdivisions to use design-build or construction management at-risk methods and modifies a current provision dealing with highway design-build project contracts.

CONSTRUCTION MANAGER-AT-RISK (Section 67.5050, RSMo)

The bill creates the construction manager-at-risk method which political subdivisions are permitted to use when engaging in civil work projects in excess of \$2 million and non-civil works projects in excess of \$3 million. When entering into contracts for the services of a construction manager at-risk for such construction projects, political subdivisions are required to follow the procedures set forth in this bill.

Political subdivisions are required to select both a construction manager at-risk and an engineer or architect who will prepare the construction documents for the project. The engineer is not permitted to serve as the construction manager at-risk. Construction managers at-risk are required to publicly advertise and receive bids or proposals from trade contractors or subcontractors. In the event that the political subdivision has a preference for a subcontractor or trade contractor that differs from the construction manager at-risk, the political subdivision is required to compensate the construction manager at-risk by the change in price, time, or guaranteed maximum cost for any additional cost and risk incurred by the construction manager at risk.

A political subdivision is required to publish a request for proposal or qualifications in a newspaper of general circulation for a period of two weeks prior to opening the submitted proposals or qualifications. Within 45 days, the political subdivision shall evaluate each proposal and interview at least two of the top bidders. The political subdivision is required to

FISCAL DESCRIPTION (continued)

select the proposal that offers the best value, as determined by the political subdivision. This provision does not apply to constitutionally-established metropolitan sewer districts, special charter cities, charter counties, or charter cities that have adopted the construction manager at-risk method via ordinance, rule, or regulation. This provision will sunset on September 1, 2026.

DESIGN-BUILD CONTRACTS (Sections 67.5060 and 227.107)

The bill further creates new provisions of law relating to design build contracts entered into between a political subdivision and a design-builder. A design-build contract is one that is entered into for the purpose of furnishing architectural, engineering, and related design services and the labor, materials, supplies, equipment, and other construction services required for a design build project. Specifically, the bill sets forth the process to be followed in requesting proposals for design-build contracts. The political subdivision shall solicit proposals in a three-stage process: Phase I shall be the solicitation of qualifications of the design-build team; Phase II shall be the solicitation of a technical proposal including conceptual design for the project; and Phase III shall be the proposal of the construction cost. Noncivil works projects must be in excess of \$7 million. Civil works projects do not have a price threshold.

In addition, this bill authorizes any political subdivision to use a design-build contractor for waste water and water treatment projects and prohibits the Department of Economic Development from rejecting waste water or water treatment projects solely for using design-build when disbursing certain grants and loans. These provisions do not apply to constitutionally-established metropolitan sewer districts, special charter cities, charter counties, or charter cities which have adopted the design-build method via ordinance, rule, or regulation. This provision will sunset on September 1, 2026. Currently, the authority for the State Highways and Transportation Commission to enter into highway design-build project contracts expires on July 1, 2018. This bill removes the expiration date.

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

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

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

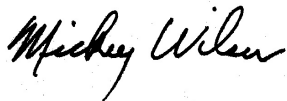
Missouri Department of Transportation

Missouri Western State University

University of Missouri Systems

City of Columbia

Callaway County Commission



Mickey Wilson, CPA
Director
May 27, 2016

Ross Strobe
Assistant Director
May 27, 2016