

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0634S.01I
Bill No.: SB 177
Subject: Contracts and Contractors
Type: Original
Date: February 9, 2023

Bill Summary: This proposal creates new provisions prohibiting discrimination against businesses based on ESG scores.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Purchasing (OA)** is unsure if the bill language is specifically references “ESG scores” or if any economic, social, or governance preferences could not be considered. If any economic, social, or governance preferences cannot be considered, this bill conflicts with the following statutes: • Sections 34.350-34.359, RSMo regarding Missouri Domestic Products Procurement Act • Section 34.600, RSMo regarding Anti-Discrimination Against Israel Act • Section 34.165, RSMo regarding Organization for the Blind and Sheltered Workshop Preference • Section 34.074, RSMo regarding Missouri Service-Disabled Veteran Business Preference.

Officials from the **Department of Revenue, Department of Commerce and Insurance, the Department of Economic Development, the Department of Elementary and Secondary Education, the Department of Higher Education and Workforce Development, the Department of Health and Senior Services, the Department of Mental Health, the Department of Natural Resources, the Department of Labor and Industrial Relations, the Department of Public Safety (Capitol Police, Alcohol & Tobacco Control, Fire Safety, Gaming Commission, Missouri National Guard, State Emergency Management Agency and Veterans Commission), the Department of Social Services, the Office of the Governor, the Joint Committee on Administrative Rules, the Joint Committee on Public Employee Retirement, the Missouri Lottery Commission, the Missouri Consolidated Health Care Plan, the Department of Agriculture, the Missouri Department of Conservation, the Missouri Ethics Commission, the Missouri House of Representatives, the Department of Transportation, the Office of Prosecution Services, the Office of Administration (Administrative Hearing Commission and Budget and Planning), the Office of the State Courts Administrator, the Office of the State Auditor, the Missouri Senate, the Office of the State Public Defender, the Office of the State Treasurer and the State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations for this proposal.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

Officials from the **Department of Corrections (DOC)** state this proposal creates new provisions prohibiting discrimination against businesses based on environmental, social, and governance scores.

This legislation appears to limit the DOC’s ability to score bidders based on their composite materials and institutional security, and could increase the possibility for litigation against the department if a bidder does not agree with the scoring process.

DOC states that the Missouri Vocational Enterprises uses some raw materials containing various levels of recycled content for some product lines. Since the recycled content may vary from one product supplier to another, this could potentially create a negative impact if the evaluation was considered “preferential treatment based on an environmental, social, and governance score.”

It is unknown if, and when, a business would disagree with the procurement process. Therefore, this legislation could cause an unknown impact to the department.

Officials from the **Kansas City** assume this proposal could have a negative fiscal impact on their city.

Oversight assumes because the potential for litigation is speculative, the **DOC** or any governmental agency that lets bids, will not incur significant costs related to this proposal.

Officials from the cities: **O'Fallon** and **Springfield**, each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

Officials from the **Department of Public Safety – Directors Office** and **Missouri Highway Patrol** defer to the Office of Administration for the potential fiscal impact of this proposal.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 \$5,000. 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 its 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.

Officials from the **Attorney General's Office** did not respond to **Oversight's** request for fiscal impact for this proposal.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<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 act prohibits any public entity from discriminating or giving preferential treatment to any bidder, offeror, contractor, or subcontractor, when engaged in procuring or letting contracts for any purpose, based on an environmental, social and governance score, as defined in the act.

The act also prohibits any limited liability company or corporation from being discriminated against or given preferential treatment based on an environmental, social and governance score, as defined in the act.

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

Department of Commerce and Insurance

Department of Economic Development

Department of Elementary and Secondary Education

Department of Higher Education and Workforce Development

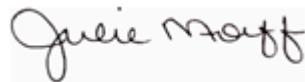
Department of Health and Senior Services

Department of Mental Health

Department of Natural Resources

Department of Corrections

Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety
Department of Social Services
Office of the Governor
Joint Committee on Public Employee Retirement
Joint Committee on Administrative Rules
Missouri Lottery Commission
Legislative Research
Oversight Division
Local Government Employees Retirement System
Missouri Consolidated Health Care Plan
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Office of the Lieutenant Governor
Missouri Department of Transportation
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Missouri Office of Prosecution Services
Office of Administration
Facilities Management, Design and Construction
Office of the State Courts Administrator
Office of the State Auditor
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
Office of the State Treasurer
Public Schools and Education Employee Retirement Systems
State Tax Commission
Kansas City
O'Fallon
Springfield



Julie Morff
Director
February 9, 2023



Ross Strope
Assistant Director
February 9, 2023