

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1134S.01I
Bill No.: SB 316
Subject: Contracts and Contractors
Type: Original
Date: March 31, 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 <u>Other</u> 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 - Facilities Management, Design and Construction (OA-FMDC)** state this bill could have an unknown fiscal impact on the State's contract costs and ability to obtain necessary goods and services, in addition to the costs to OA-Purchasing and OA-FMDC to implement a process to ensure that contractors are complying with this requirement. Many corporations and businesses that the State does business with likely consider at least one factor identified in the definition of "environmental, social, and governance score" when hiring subcontractors, such as the subcontractor's use of raw materials, environmental policies, wages and/or working hours. Prohibiting firms that consider such factors from competing for contracts with the State of Missouri will likely reduce the number of viable vendors competing for public contracts. A reduced competition pool will probably lead to increased prices from vendors, and may also lead to inferior quality of performance or complete inability to obtain certain products or services.

OA-FMDC state additional fiscal impact could also result if OA-FMDC's assumption is incorrect that compliance with this bill can be achieved with a self-certification/attestation form. If this bill were interpreted to require OA-FMDC to take steps to investigate contractor's compliance with this requirement, the impact would be higher.

Oversight assumes an increase in cost due to a potential reduction in vendors is speculative and will not reflect a fiscal impact as a result

OA-FMDC assumes that it would ensure compliance with this bill by requiring contractors to complete a self-certification/attestation form. This would require time by OA-FMDC staff to create the form and amend bid documents and templates to include this new requirement. OA-FMDC assumes this would take approximately 100 hours of staff time at \$40.00 per hour. OA-FMDC has approximately 275 existing contracts that would need to be amended to include this requirement. OA assumes that it would take at least one hour per contract to complete this task. This bill would also cause an increase in the number of contracts that would need to be rebid if existing vendors refuse to comply. Therefore, OA-FMDC estimates the total fiscal impact of this bill to be \$40,000. At this time, it is believed that the additional staff time and resources can be absorbed by OA-FMDC. However, if there are multiple pieces of legislation passed where OA-FMDC has responded that the costs can be absorbed, OA-FMDC would need to reevaluate to see if additional staff and associated expenses would then be required.

Officials from the OA-FMDC assume the fiscal impact of this proposal can be absorbed.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for OA-FMDC.

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.

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 **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 Revenue, 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 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 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 Secretary of State, the Office of the State Public Defender, and the State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations.

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 for these agencies.

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.

Officials from the cities: **Kansas City, 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 **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 against 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.

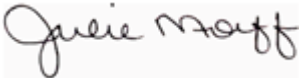
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

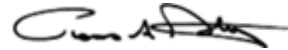
Office of Administration
Department of Commerce and Insurance
Department of Economic Development
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health
Department of Natural Resources
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety
 Office of the Director
 Division of Alcohol and Tobacco Control
 Capitol Police
 Fire Safety
 Missouri Gaming Commission
 Missouri Highway Patrol
 Missouri National Guard
 State Emergency Management Agency
 Missouri Veterans Commission
Department of Social Services
Joint Committee on Public Employee Retirement
Joint Committee on Administrative Rules
Missouri Lottery Commission
Legislative Research
Oversight Division
Missouri Consolidated Health Care Plan
Missouri Department of Agriculture
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Missouri Department of Transportation
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Missouri Office of Prosecution Services
Office of Administration
 Administrative Hearing Commission
 Budget and Planning
Facilities Management, Design and Construction
Office of the State Courts Administrator
Office of the State Auditor

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Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
State Tax Commission
Kansas City
O'Fallon
Springfield



Julie Morff
Director
March 31, 2023



Ross Strobe
Assistant Director
March 31, 2023