

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1601S.01I
 Bill No.: SB 377
 Subject: Office of Administration; Public Contracts
 Type: Original
 Date: April 4, 2023

Bill Summary: This proposal creates new provisions relating to public contracts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund	(\$89,040)	(\$97,303)	(\$98,937)
Total Estimated Net Effect on General Revenue	(\$89,040)	(\$97,303)	(\$98,937)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Conservation Commission Fund	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)

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
General Revenue Fund (DNR)	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

- 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

Section 34.650 – Contract Provisions

Officials from the **Office of Administration (OA)** state the proposed legislation will require OA Purchasing to develop internal processes and self-certification/attestation form/language/exhibits. OA-Purchasing will then need to amend existing contracts to include the self-certification/attestation documents and for new procurements include vendor/contractor self-certification/attestation language and exhibits to ensure that contracts are not awarded to such entities that have the stipulations in the proposed legislation. OA-Purchasing assumes this would take approximately 1,000 hours of staff time at an average hourly salary of \$20.00 per hour to develop the internal processes, forms/language/ exhibits, and to include the forms/language/exhibit to any new procurements. Therefore, OA-Purchasing estimates the total fiscal impact of this bill to be at least \$20,000. At this time, it is believed that the additional staff time and resources can be absorbed by OA-Purchasing. However, if there are multiple pieces of legislation passed where OA-Purchasing has responded that the costs can be absorbed, OA-Purchasing would need to reevaluate to see if additional staff and associated expenses would then be required.

Additional fiscal impact could also result if OA-Purchasing's assumption is incorrect that compliance with this bill can be achieved with a self-certification/attestation form. The bill language does not require OA-Purchasing to take any specific steps to investigate contractor's compliance with this requirement, but if such compliance checks are implied, then fiscally the impact would be higher. Note that OA-Purchasing can only address those contracts issued by it, and each state agency would have to do their own compliance checks or reviews for every one of its purchases and contracts covered by the law.

Officials from the Office of Administration assume agency can absorb the cost of the proposal. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

Officials from the **Department of Natural Resources (DNR)** assume this proposal prohibits public entities from entering into contracts with companies which engage in economic boycotts. To meet the requirements of this bill, the Department of Natural Resources would have an affidavit in all contracts, certifying that companies do not engage in economic boycotts.

DNR estimates that it processes 5,000 contracts per year. The affidavit would take 20 minutes per contract, for a total of 100,000 additional minutes (1,666 hours) of time. This would require one FTE (procurement specialist at \$52,680 annually).

Oversight does not have any information to the contrary. Therefore, Oversight will reflect estimated cost by DNR to the General Revenue Fund.

Officials from the **Missouri Department of Conservation (MDC)** anticipates an unknown fiscal impact.

Oversight assumes this proposal could have an administrative fiscal impact on the Missouri Department of Conservation. For fiscal note purposes, Oversight will assume an unknown cost of less than \$100,000 to the Conservation Commission Fund.

Officials from the **Public Schools and Education Employee Retirement Systems (PSRS/PEERS)** state the their agency has an actuary firm, PricewaterhouseCoopers (PWC), that prepares actuarial cost statements on any proposed legislation as well as the annual actuarial valuation reports for the Systems. This legislation will be submitted to them for an actuarial statement. As soon as the actuarial statement is available, they will be amending their fiscal response to include their analysis.

PSRS/PEERS assume this legislation would significantly impact the Public School Retirement System of Missouri (PSRS) and the Public Education Employee Retirement System (PEERS), collectively referred to as the Systems. The Systems are evaluating the proposed legislation and the overall impact on the Systems' investment, service and consulting contracts. PSRS/PEERS assumes this legislation would impact their ability to contract with private partners (particularly investment relationships).

Officials from the **Kansas City** state that this legislation could have a negative fiscal impact on Kansas City in an indeterminate amount if it exposes Kansas City to liability.

Officials from the **City of Springfield** anticipates there could be an undetermined negative fiscal impact from this bill if it limits potential bidders for City contracts. The City does not have sufficient data to determine if such an impact would occur.

Oversight assumes the potential for litigation, limitation of bidders and contract relationships are speculative. Therefore, Oversight will reflect a zero impact in the fiscal note for retirement systems and local political subdivisions.

Officials from the **Attorney General's Office**, the **Missouri Department of Transportation**, and the **Department of Public Safety - Missouri National Guard** 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Cost - DNR</u>			
Salaries	(\$43,900)	(\$53,734)	(\$54,808)
Fringe Benefits	(\$29,411)	(\$35,688)	(\$36,090)
Equipment and Expense	(\$15,730)	(\$7,882)	(\$8,039)
<u>Total Cost - DNR</u>	<u>(\$89,040)</u>	<u>(\$97,303)</u>	<u>(\$98,937)</u>
FTE Change – DNR	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$89,040)</u>	<u>(\$97,303)</u>	<u>(\$98,937)</u>
Estimated Net FTE Change to the General Revenue Fund	1 FTE	1 FTE	1 FTE
CONSERVATION COMMISSION FUND			
<u>Cost – MDC</u> Administrative Cost	<u>(Unknown, less than \$100,000)</u>	<u>(Unknown, less than \$100,000)</u>	<u>(Unknown, less than \$100,000)</u>
ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION FUND	<u>(Unknown, less than \$100,000)</u>	<u>(Unknown, less than \$100,000)</u>	<u>(Unknown, less than \$100,000)</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

Under this act, public entities are prohibited from entering into certain contracts with a company unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract not to engage in, any kind of economic boycott, as that term is defined in the act. Any contract failing to comply with the provisions of this act shall be void against public policy.

This act does not apply to contracts with a total potential value of less than \$100,000 or to contractors with fewer than 10 employees.

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

Attorney General's Office
Department of Natural Resources
Missouri Department of Conservation
Missouri Department of Transportation
Missouri National Guard
Office of Administration
Kansas City
City of Springfield
Public Schools and Education Employee Retirement Systems



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