

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1026S.01I
 Bill No.: SB 272
 Subject: Office of Administration; Contracts and Contractors
 Type: Original
 Date: March 24, 2025

Bill Summary: This proposal creates new restrictions on certain business practices of entities doing business in this state related to economic boycotts and DEI initiatives.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue Fund*	\$0	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the potential limitation of investment pools could result in an increase in employer contributions for state agencies that could exceed \$250,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
State Road Fund*	\$0	\$0 or (Unknown)	\$0 or (Unknown)
Various Other State Funds*	\$0	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the potential limitation of investment pools could result in an increase in employer contributions for local political subdivisions.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Federal Funds*	\$0	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the potential limitation of investment pools could result in an increase in employer contributions for local political subdivisions.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
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 2026	FY 2027	FY 2028
Local Government*	\$0	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight assumes the potential limitation of investment pools could result in an increase in employer contributions for local political subdivisions.

FISCAL ANALYSIS

ASSUMPTION

Section 34.650 – Contract Provisions

Officials from the **Office of Administration – Division of Purchasing (OA)** 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, OA Purchasing will need to include vendor/contractor self-certification/attestation language and 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 \$27.11 per hour to develop the internal processes, forms/language/exhibits, and to include the forms/language/exhibits in any new procurements. Therefore, OA-Purchasing estimates the total fiscal impact of this bill to be at least \$27,110. 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.

It is possible that the restrictions on companies may cause certain vendors to be unable to be a contractor or do business with Missouri.

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 - Facilities Management, Design and Construction (OA-FMDC)** assume the proposed legislation will require OA-FMDC to develop internal processes and self-certification/attestation form/language/exhibits. OA-FMDC will then need to amend existing contracts to include the self-certification/attestation documents and for new procurements OA-FMDC will need to include contractor self-certification/attestation language and to ensure that contracts are not awarded to such entities that have the stipulations in the proposed legislation. OA-FMDC assumes this would take approximately 1,000 hours of staff time at an average hourly salary of \$32.78 per hour to develop the internal processes, forms/language/exhibits, and to include the forms/language/exhibits in any new procurements. Therefore OA-FMDC estimates the total fiscal impact of this bill to be at least \$32,780. 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.

If it possible that the restrictions on construction companies may cause certain contractors to be unable to be awarded a contract to.

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. The bill language does not require OA-FMDC to take any specific steps to investigate the contractor's compliance with this requirement, but if such compliance checks are implied, then fiscally the impact would be higher.

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 for OA-Purchasing.

Officials from the **Public Schools and Education Employee Retirement Systems (PSRS/PEERS)** state that 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.

In response to a similar proposal from 2023 (SB 430), officials from the **PSRS/PEERS** assumed 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 Civilian Police Employee's Retirement System** and the **Kansas City Police Retirement System (KCPERS)** state that the legislation risks and unknown potential revenue losses by narrowing our contracting options due to higher operational costs, inefficiencies, and diminished investment returns. The broad and subjective criteria regarding economic boycotts also create uncertainty and legal exposure for vendors, further discouraging their participation and increasing costs for public entities.

The proposed statutory language in Section 34.650 could impose broad restrictions on vendors that could hinder ability to secure essential services. As a small organization with limited internal resources, KCPERS relies on specialized external vendors for critical operations, and the proposed requirements may unnecessarily narrow our vendor pool, increase costs, and delay

services. These limitations could compromise our ability to effectively manage the system and fulfill our fiduciary duties to members and beneficiaries.

Officials from the **Missouri State Employee's Retirement System (MOSERS)** assume under new Section 34.650 in the proposed legislation, a public entity would be prohibited from contracting with a company unless the contract includes a written certification that the company is not currently engaging in, and for the duration of the contract shall not engage in, any kind of economic boycott.

MOSERS assumes this legislation will negatively impact the system's ability to contract with private companies in general but especially investment managers. If managers refuse to contract with MOSERS due to the restrictions of this bill and the remedies for violating them, MOSERS' access to investment pools will be limited, which could result in diminished returns over time. If potential contractors decline to submit bids or proposals for non investment contracts, the decreased competition may increase costs and result in higher dollar contracts with lower quality vendors. In addition to any operational costs, the fiscal extent of these impacts is unascertainable but estimated to be significant.

Officials from the **Metro St. Louis Sewer District Employees Pension Plan** cannot estimate the exact fiscal impact, but any legislation that limits the number of otherwise qualified bidders will decrease competition and should be expected to lead to higher costs that will be ultimately be borne by ratepayers. Similar laws in other states are being challenged in court and research/reports out of Texas estimate that the laws passed there have hurt economic activity and increased municipal costs.

Officials from the **County Employees' Retirement Fund (CERF)** state that this proposal would impact how the County Employees' Retirement Fund enters into contracts with vendors for services including but not limited to actuarial services, administrative services for its defined contribution plan, information technology (such as hardware, software, and programming), and depository, banking, and custodial services. SB 272 would also apply to contracts with investment managers.

By requiring a company to provide the written certification as described in the act, SB 272 may have the effect of some potential vendors or service providers choosing not to do business with Missouri public entities. Some companies may be hesitant to provide such written certification. This may result in a smaller number of available service providers from which to choose and possible missed opportunities for Missouri public entities to obtain similar or improved services at a better price. In addition, obtaining written certification from a company may require a longer period of time to complete contract negotiations and may increase administrative time and costs.

Officials from the **Sheriff's Retirement System** state the legislation could have an impact on the Retirement Systems' investment, service and consulting contracts. At this time the impact is unknown.

Officials from the **City of Kansas City** state that this legislation could have a negative fiscal impact if it prohibits contracting with an entity that had the lowest contracting price.

Oversight assumes the limitation of bidders and contract language could negatively impact retirement systems ability to contract with private companies and investment managers, ultimately leading to limited investment pools, diminished returns over time, increased cost and higher dollar contracts. Oversight will reflect a range of impact of \$0 to an unknown cost that could be substantial to the state, universities and local political subdivisions.

Officials from the **Office of Attorney General (AGO)** assume any potential litigation costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in litigation or investigation costs.

Officials from the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation** and the **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 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE FUND*			
<u>Cost – increase in employer contribution</u>	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
STATE ROAD FUND (0320)*			
<u>Cost – increase in employer contribution rates</u>	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO THE STATE ROAD FUND	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
OTHER STATE FUNDS*			
<u>Cost – increase in employer contribution rates</u>	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO THE OTHER STATE FUNDS	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
FEDERAL FUNDS*			
<u>Cost – increase in employer contribution rates</u>	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS*			
<u>Cost – increase in employer contribution rates</u>	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

*Oversight assumes the potential limitation of investment pools could result in an increase in employer contributions for local political subdivisions.

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.

Provisions are included allowing the Attorney General to enforce this act. A company that enters into a contract with a public entity that is subject to this act and engages in any economic boycott during the term of the contract shall be obligated to pay damages to the state in an amount equal to three times all monies paid to the company under the contract. Additionally, any person injured as a result of any violation or threatened violation of this act may bring a cause of action in Cole County Circuit Court and shall be entitled to injunctive relief as well as damages, including costs and attorney fees.

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 provision is identical to SB 430 (2023) and substantially similar to SB 1061 (2024).

UNLAWFUL BUSINESS PRACTICES - DEI CLASSIFICATIONS (Section 431.205)

The act also creates unlawful business practices relating to DEI classifications. A DEI classification is defined as race, ethnicity, nationality, socioeconomic status, sex, sexual orientation, gender, or gender identity.

Pursuant to the act, it is an unlawful business practice for any private business, in entering into, maintaining, or seeking to establish contractual relations with any other private business to:

- Fail or refuse to enter into a contract, maintain a contract, or entertain bids or offers to contract, based, in whole or in part, on the fact that the other private business: (a) does not provide information or data, or does not provide sufficient information or data, about the extent to which its workforce or ownership exhibit particular DEI classifications; or (b) Fails to satisfy any rule, standard, policy, goal, aspiration, or preference, whether express or implied, regarding the extent to which its workforce, managers, executives, or ownership exhibit or claim to exhibit particular DEI classifications.
- Consider: (a) Whether the owners, controllers, officers, or employees of another private business exhibit or claim to exhibit particular DEI classifications; or (b) Whether another private

business has adopted or endorsed any particular policy or practice that promotes the hiring and promotion of employees based on the fact that those employees or prospective employees exhibit or claim to exhibit particular DEI classifications. It is a violation of this provision if any of the foregoing criteria is considered as one criterion among many other criteria, treated as a dispositive criterion in making a decision, or is part of an express or implied scoring or grading system;

- Require or suggest that individuals exhibiting particular DEI classifications, because of their DEI classifications, work on the contract or have particular roles in performing the contract, or to require or suggest that a particular quota or percentage of individuals working on the performance of a contract exhibit one or more particular DEI classifications; and
- Require or suggest that any other contracting party provide data regarding the extent to which its workforce, managers, executives, or ownership exhibit or claim to exhibit particular DEI classifications.

A civil action for violation of this provision may be brought within two years after the alleged unlawful business practice occurred or after its reasonable discovery by the alleged injured party. In any civil action brought pursuant to this act, the plaintiff shall bear the burden of proving the alleged unlawful practice was the direct proximate cause of the claimed damages. Any party to such an action has a right to a trial by jury. The court may award certain fees, damages, and court costs as described in the act.

The act additionally empowers the Attorney General to issue a civil investigative demand or bring a civil action in the Cole County Circuit Court seeking appropriate remedies if there is reasonable cause to believe that any private business or group of private businesses is engaged in an unlawful business practice prohibited by this provision.

This act contains various exemptions.

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
Public Schools and Education Employee Retirement Systems
Kansas City Civilian Police Employees' Retirement

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Kansas City Police Retirement System
Metro St. Louis Sewer District Employees Pension Plan
Sheriff's Retirement System
Missouri State Employee's Retirement System



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March 24, 2025



Jessica Harris
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March 24, 2025