

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1057S.01I  
Bill No.: SB 338  
Subject: Contracts and Contractors; Treasurer, State; Banks and Financial Institutions  
Type: Original  
Date: March 11, 2025

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Bill Summary: This proposal prohibits giving preferential treatment or discrimination based upon ESG scores.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- ☐ 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Office of Administration (OA)** state that some of this bill's definition of "environmental, social, and governance score" is unclear (i.e. in 2 [3], what is considered "social welfare") and could cause uncertainty for OA and other state agencies in awarding contracts. This bill could potentially be construed as conflicting with several existing statutes that require preferences for certain vendors or types of materials or prohibit certain vendors from bidding on state contractors. Examples of other statutes that this bill could potentially interpreted as conflicting with, include, but are not limited to the following:

- Section 34.070 - Preference to Missouri products and firms
- Section 34.074, RSMo - Service disabled veterans preference
- Section 34.165, RSMo - preference to the blind/sheltered workshops
- Sections 34.350-34.359, RSMo - Domestic Products Procurement Act
- Section 37.020, RSMo - minority and women's business enterprises
- Section 290.210 -.340, RSMo - Wage Rates on Public Works (Prevailing Wage)

Those solicitations that require the inclusion of a wage order must be evaluated to confirm the vendors' agreement to pay prevailing wage may potentially conflict with the bill's language in 2(4). Additionally, some state procurements for total not to exceed prices ask for a budget breakdown which could include salaries or ask for hourly rates for specific positions which could potentially now be in conflict with the bill's language in 2(4).

**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

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 **Office of the State Treasurer (STO)** assume §30.620 2. (1) states, “The state treasurer shall create and maintain a restricted financial institution list containing the names of financial institutions that are engaged in a boycott. The list shall be used by the state treasurer for the purpose of determining which financial institutions to enter into a banking contract with.”

3 (2) “The state treasurer shall publicly post the restricted financial institution list on the state treasurer's website and submit a copy of the list to the governor, the president pro tempore of the senate, and the speaker of the house of representatives.”

This may require an additional FTE.

**Oversight** assumes STO is provided with core funding to handle a certain amount of activity each year. Oversight assumes STO could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, STO could request funding through the appropriation process

Officials from the **Missouri State Employee's Retirement System**, the **MoDOT & Patrol Employees' Retirement System**, the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, and **Kansas City** each assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

#### 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.

**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
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
	<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 creates new provisions relating to public contracts.

The act requires the State Treasurer to create a Restricted Financial Institutions List, containing the names of financial institutions that are engaged in a boycott of companies, as that phrase is defined in the act. The list is to be used by the Treasurer for the purpose of determining which financial institutions to enter into banking contracts with. The list must be updated annually and is required to be posted on the Treasurer's website and delivered to the Governor, the President Pro Tem of the Senate, and the Speaker of the House of Representatives.

The act requires a notice period for financial institutions prior to being included on the Restricted Financial Institutions List. Specifically, 45 days prior to including a financial institution on the restricted financial institution list, the Treasurer shall send a written notice to the institution notifying it that it has the opportunity to demonstrate that it is not engaged in a boycott of companies. Following inclusion on the list, the financial institution may be removed upon demonstration to the Treasurer that it has ceased all boycotts.

The act permits the Treasurer to disqualify restricted financial institutions from the competitive bidding process or from any other official selection process for any banking contract. The Treasurer may refuse to enter into a banking contract or an extension of any banking contract with a restricted financial institution based on its restricted financial institution status. The Treasurer may require, as a term of any banking contract, an agreement by the financial institution not to engage in a boycott for the duration of the contract.

With respect to actions taken in compliance with this act, a public body, public official, public employee, or member or employee of a financial institution shall be immune from any liability.

No party may take action to penalize or threaten to penalize any financial institution for compliance with this act. Furthermore, any contract subject to this act may be enforced by the Attorney General who shall have the same investigatory authority as permitted under the Missouri Merchandising Practices Act.

In addition to any other remedies available at law or equity, a company that provides false information to the Treasurer and later receives state monies, or violates a contractual agreement with the state not to engage in a boycott, is required to pay damages to the state in an amount equal to three times all monies paid to the company by the state for the company's goods or services.

This act requires public bodies to ensure that bidders, offerors, contractors, or subcontractors, when engaged in procuring or letting contracts for any purpose, are not given preferential treatment or discriminated against 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

MoDOT & Patrol Employees' Retirement System

Missouri State Employee's Retirement System

Department of Natural Resources

Department of Corrections

Missouri Department of Conservation

Missouri Department of Transportation

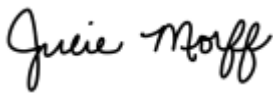
Office of Administration

Office of the Secretary of State

Office of the State Treasurer

Joint Committee on Administrative Rules

Kansas City



Julie Morff

Director

March 11, 2025



Jessica Harris

Assistant Director

March 11, 2025