

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3395-01
BILL NO.: Perfected SB 772
SUBJECT: Contracts and Contractors; State Departments
TYPE: Original
DATE: April 12, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue**	(\$4,742,292)	(\$5,861,472)	(\$6,037,317)
Highway	\$13,513,386	\$16,702,543	\$17,203,621
School District Trust	(\$3,218,750)	(\$3,978,375)	(\$4,097,726)
Conservation	(\$402,344)	(\$497,297)	(\$512,216)
Parks and Soil	(\$321,875)	(\$397,837)	(\$409,773)
Total Estimated Net Effect on <u>All</u> State Funds	\$4,828,125	\$5,967,562	\$6,146,589

**** Does not include Unknown savings or costs related to design-build contracts.**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	(\$4,828,125)	(\$5,967,562)	(\$6,146,590)

FISCAL ANALYSIS

ASSUMPTION

Simultaneous contract for the design and construction of a building:

Officials of the **Department of Transportation (DHT)** and the **Missouri Department of Conservation (MDC)** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Natural Resources (DNR)** assume they would work with the Office of Administration - Division of Design and Construction (COA) on any contractors wishing to bid on state building contracts. Therefore, they assume they would not be impacted by the proposal, since they would follow COA's guidance.

Officials from the **Office of the Secretary of State (SOS)** assume the bill would allow the Division of Design and Construction to promulgate rules for the conduct of the design-build process. Based on experience with this Division, the rules, regulations and forms issued by the Division if they were promulgated, would be minimal and the cost could be absorbed.

Officials from the **Coordinating Board for Higher Education (CBH)** assume this proposal would have no fiscal impact on the CBH, because they do not work directly with any construction contracts. However, it could have an impact on the colleges and universities.

Officials from the **Office of Administration - Division of Design and Construction (COA)** assume they would incur annual costs of approximately \$100,000. This would be the worst case scenario if five qualified proposers would participate in the bid of one Design-Build project, if each proposer is responsive, if the design-build proposer does not desire to retain all rights and interest in their design and the stipend paid to each proposer is approximately \$25,000 (maximum foreseeable amount).

Oversight assumes that combining the design and construction of a facility into one contract may affect the total cost of the project. Savings could be realized since one "design-builder" is responsible for the total project, and Division of Design and Construction (D&C) would not have to contract out the design and construction functions separately. However, Oversight further

ASSUMPTION (continued)

assumes there may be additional costs associated with this proposal, as it requires D&C to pay a stipend to each unsuccessful proposer in return for their rights in the design. Because design-builders may choose to forfeit this fee to retain the rights to their design, the costs for these fees cannot be estimated.

Exemption for state departments or agencies relating to constructing, repairing or remodeling facilities for sales tax purposes:

Officials of the **Department of Revenue (DOR)** state this legislation includes any department or agency of the state as an exempt entity for sales tax purposes. Certain Conservation Commission, Natural Resources, Corrections and others sales will be exempt. This proposal would not administratively impact the DOR.

Officials of the **Missouri Department of Conservation (MDC)** state this proposal would not fiscally impact their agency.

Officials of the **Department of Transportation (DHT)** state the proposed legislation provides a sales tax exemption for construction materials for all state agencies.

Estimates are based on the following assumptions: \$550,000,000 of work completed in 1999; 50% of the contracts consists of materials; and, a state sales tax rate of \$0.04225. Based on these figures, MoDOT would experience an annual cost savings of up to \$11,618,750 from the sales tax exemption. However, the savings will only be realized if the vendors' contract prices are lowered by the sales tax amount.

State sales tax funds will lose \$11,618,750 in sales tax revenues that are exempted through this legislation.

According to officials from **Office of Administration-Design and Construction**, \$200 million is spent annually on construction projects, and approximately 50% of that is spent on taxable materials.

Oversight has combined the revenue estimates provided by MoDOT and the Office of Administration to reflect the total revenue impact of this proposal. Oversight assumes there would be annual cost savings from the sales tax exemption due to lower contract prices. A 3% growth rate was assumed.

This proposal would result in a decrease in Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
<u>Savings due to design-build contracts</u>	Unknown	Unknown	Unknown
<u>Costs - Stipend for rights to designs</u>	(Unknown)	(Unknown)	(Unknown)
<u>Savings to General Revenue Fund</u>			
Lower contract prices	\$4,913,958	\$6,073,653	\$6,255,862
<u>Loss to General Revenue Fund</u>			
Sales tax exemption Construction Materials	(\$9,656,250)	(\$11,935,125)	(\$12,293,179)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND**	<u>(\$4,742,292)</u>	<u>(\$5,861,472)</u>	<u>(\$6,037,317)</u>

**** Does not include Unknown savings or costs related to design-build contracts.**

HIGHWAY FUND

<u>Savings to the Highway Fund</u>			
Lower contract prices	\$13,513,386	\$16,702,543	\$17,203,621

SCHOOL DISTRICT TRUST FUND

<u>Loss to School District Trust Fund</u>			
Sales tax exemption Construction Materials	(\$3,218,750)	(\$3,978,375)	(\$4,097,726)

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
CONSERVATION FUND			
<u>Loss to Conservation Fund</u>			
Sales tax exemption Construction Materials	(\$402,344)	(\$497,297)	(\$512,216)
PARKS AND SOIL FUND			
<u>Loss to Parks and Soils Fund</u>			
Sales tax exemption Construction Materials	(\$321,875)	(\$397,837)	(\$409,773)
<u>FISCAL IMPACT - Local Government</u>			
	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Loss to Cities</u>			
Sales tax exemption Construction Materials	(\$2,896,875)	(\$3,580,537)	(\$3,687,954)
<u>Loss to Counties</u>			
Sales tax exemption Construction Materials	(\$1,931,250)	(\$2,387,025)	(\$2,458,636)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>(\$4,828,125)</u>	<u>(\$5,967,562)</u>	<u>(\$6,146,590)</u>

FISCAL IMPACT - Small Business

This proposal may affect small businesses as it may decrease the number of businesses capable of bidding on both the design and construction of a facility. Small businesses who sell construction materials would be expected to be fiscally impacted to the extent that they would no longer collect and pay tax on construction materials on state contracts.

L.R. NO. 3395-01
BILL NO. Perfected SB 772
PAGE 6 OF 6
April 12, 2000

DESCRIPTION

This proposal allows the Division of Design and Construction of the Office of Administration to simultaneously contract for the design and construction of a building. Proposals would be solicited in a three-phase process. Phase I would be the solicitation of qualifications of the design-build team; phase II would be the solicitation of a technical proposal including conceptual design for the project; and phase III would be the proposal of the construction cost. An evaluation team would review the submittals of the proposers and assign points to each proposal in accordance with this legislation. The proposer with the highest total number of points would be awarded the contract. The Division would pay a stipend to all unsuccessful proposers and it would retain all rights to the design.

This act classifies a department or agency of the state of Missouri as an exempt entity for the purpose of constructing, repairing or remodeling facilities for sales tax purposes.

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

Department of Transportation
Missouri Department of Conservation
Department of Natural Resources
Office of the Secretary of State
Coordinating Board for Higher Education
Office of Administration - Division of Design and Construction
Department of Revenue



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Director
April 12, 2000