

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1824-01  
Bill No.: HB 844  
Subject: Contracts and Contractors; Political Subdivisions  
Type: Original  
Date: March 17, 2015

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Bill Summary: This proposal modifies provisions related to construction management.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<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.

This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 2016</b>	<b>FY 2017</b>	<b>FY 2018</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 \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **City of Kansas City** assume the City will incur additional advertisement costs if required to advertise in newspapers. The specific amount is not known because it will depend on the number of projects. The City currently advertises all bids on the web (City's "Plan Room") which allows contractors to download and print construction plans and bidding documents for free. This requirement will also add additional time to the completion of projects thus increasing administrative costs.

Additional costs may be incurred by the payment of stipends to unsuccessful contractors for certain types of design build projects. Additional undetermined costs may be incurred by the City's inability to procure contracts through Design Build if the project does not exceed one million dollars. Currently the City can procure Design Build contracts regardless of the amount of the project if this procurement method is found to be in the best interest of the taxpayers.

If only one bidder submits a responsive bid, the City would have to re-advertise the project, incurring in additional administrative and advertisement expenses. Finally, the City will incur additional costs if it's required to hire a design professional to assist with the design-build procurement process. Many of those functions can and are currently performed by in-house forces and professionals.

Officials at the **City of Liberty** assume this proposal would negatively impact the City if the City was restricted and/or unable to do projects using design build that are less than \$1 million.

Officials at the **Department of Economic Development** deferred their response to the Office of Administration.

Officials at the **Office of Administration's Purchasing and Materials Management** assume no fiscal impact from this proposal.

Officials at the **Office of Administration's Facilities Management, Design and Construction (FMDC)** assume the cost savings, if any, realized by the changes in the bill would be applied to other capital improvement or deferred maintenance projects, thus leading to a \$0 net fiscal impact.

Officials at the **Department of Labor and Industrial Relations** and the **Department of Insurance, Financial Institutions and Professional Registration** each assume no fiscal impact to their respective agencies from this proposal.

ASSUMPTION (continued)

Officials at the **Callaway County Commission** and the **Platte County Board of Election Commission** each assume no fiscal impact to their respective entities from this proposal.

Officials at the **City of O'Fallon** responded to **Oversight** but did not provide a response on fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
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**LOCAL POLITICAL SUBDIVISIONS**

<u>Costs - Local Political Subdivisions - relating to design build contracts</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>	<b>\$0 to <u>(Unknown)</u></b>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill repeals the prohibition against a construction manager awarded a construction management services contract or any construction firm affiliated with the construction manager bidding on or performing the actual construction on a public works project but requires the construction manager to submit a sealed bid in the same manner as a trade contractor. The bill provides that only those successful bidders that contract directly with the public owner must provide payment and performance bonds to the public owner. The bill also repeals the requirement that a construction management services contract must be let by competitive bidding if the construction manager or any construction firm affiliated with the construction manager guarantees or otherwise assumes financial responsibility for the work of others on the project,

FISCAL DESCRIPTION (continued)

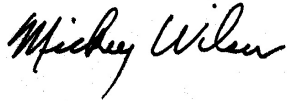
provides a guaranteed maximum price for the work of others, or furnishes or provides a performance or payment bond for the other contractors on the project. Construction management services may be awarded by a public owner on a negotiated basis. The bill also authorizes political subdivisions to enter into design-build contracts for construction projects exceeding \$1 million. In its main provisions, the bill:

- (1) Establishes design-build contract procedures;
- (2) Requires the political subdivision to adopt procedures for requesting proposals and evaluating and awarding contracts from a minimum of three and a maximum of five pre-qualified designbuilders;
- (3) Requires that separate proposals be submitted for design builder qualifications and the cost of design and construction. The qualifications proposal must be opened and ranked before the cost proposal;
- (4) Requires a political subdivision to award stipends to pre-qualified offerors under conditions set out in the bill;
- (5) Establishes advertising requirements and procedures for submitting and opening proposals and for re-advertising when necessary;
- (6) Specifies that payment bonds are required, but the performance bond does not need to cover design services if the design-builder or subcontractor providing design services carries professional liability insurance in the amount established in the request for proposal;
- (7) Requires architects, engineers, landscape architects, and land surveyors performing services for the design-builder to be licensed or authorized under statute, unless the subcontractors performing the services are properly licensed; and
- (8) Requires the political subdivision planning a design-build project to retain an architect or engineer.

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

City of Kansas City  
City of Liberty  
Department of Economic Development  
Office of Administration  
    Facilities Management, Design and Construction  
    Purchasing and Materials Management  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Labor and Industrial Relations  
Callaway County Commission  
Platte County Board of Election Commission



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March 17, 2015

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