

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1824-02
Bill No.: Perfected HCS for HB 844
Subject: Contracts and Contractors; Political Subdivisions
Type: Original
Date: April 22, 2015

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

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

FISCAL ANALYSIS

ASSUMPTION

§§8.683, 8.685

Officials at the **City of Columbia** assume this proposal could add an unknown amount of cost to City building projects.

Officials at the **City of Jefferson** state there could be cost savings from this proposal, but were unable to determine the amount.

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

Officials at the **Office of Administration's Facilities Management, Design and Construction (FMDC)** assume the cost can be absorbed in the overall project cost which will result in fewer projects or a limited scope of projects due to our limited funding. If the proposal results in a significant reduction in projects or project scopes, FMDC may require additional appropriations.

Oversight assumes from this proposal that it refers to requirements for design-build projects for local political subdivisions and would not have an affect on state funding. Therefore, Oversight will reflect a no impact to state funds from this proposal.

Officials at the **Office of Administration's Purchasing and Materials Management**, 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.

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

§§67.5050 and 67.5060

In response to similar legislation this year, HB 1042, officials at the **University of Missouri System** assumed this bill will increase the cost and risk to the University for projects delivered by Construction Management Risk and Design Build. The cost is difficult to determine but could be significant enough for the University to not use these delivery methods. For a project currently being delivered by Design Build, the added cost would be in excess of \$220,000.

ASSUMPTION (continued)

Oversight inquired the University about this proposal. The University uses Design Build on projects approximately 1 out of 50 to 100 projects per year. This amount represents a small percentage of the time that design build is used by the University. Construction Management Risk projects are also usually used on more complicated projects by the University such as phase projects. Oversight will therefore reflect that state-supported universities would use allowed construction contracts in the most efficient and effective way for each individual project and will show no fiscal impact to those entities.

In response to similar legislation this year, HB 1042, officials at the **Department of Higher Education**, the **Office of Administrations' Division of Purchasing and Materials Management and Facilities Management, Design, and Construction**, the **Department of Natural Resources**, the **Department of Economic Development** and the **Department of Labor and Industrial Relations** each assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation this year, HB 1042, officials at the **Department of Insurance, Financial Institutions and Professional Registration** and the **Department of Health and Senior Services** each assumed no fiscal impact to their respective agencies from this proposal.

In response to similar legislation this year, HB 1042, officials at the **City of Columbia**, the **Metropolitan St. Louis Sewer District**, the **City of Kansas City**, the **State Technical College of Missouri**, the **University of Central Missouri** and the **Platte County Board of Election Commission** each assumed no fiscal impact to their respective entities from this proposal.

In response to similar legislation this year, HB 1042, officials at the **Callaway County Commission** assumed no fiscal impact from this proposal.

§ 67.5070

In response to similar legislation this year, HB 1048, officials at the **City of Kansas City** assumed there will most likely be significant savings to the City, although the amount of savings cannot be determined at this time. By allowing municipalities to use the design-build procurement method for water department facilities, the City will be afforded the opportunity to

ASSUMPTION (continued)

consider the most efficient method for building a project As a result, the City will most likely see increased funds in the City's capital account which may allow the flexibility to consider more innovative approaches in facility design and operation.

In response to similar legislation this year, HB 1048, officials at the **City of Jefferson** assumed an unknown saving for the City but are unable to determine the exact savings amount.

Oversight assumes the local political subdivisions would not use specialty construction design unless it would either save money or provide some other benefit. Therefore, Oversight will assume the proposal could have a positive fiscal impact to local political subdivisions from this part of the proposal and will range the fiscal impact from \$0 to an unknown amount of savings.

Officials at the following counties: Andrew, Atchison, Audrain, Barry, Bollinger, Boone, Buchanan, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Dent, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, McDonald, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Pulaski, Scott, Shelby, St. Charles, St. Louis, St. Francois, Taney, Warren, Wayne and Worth did not respond to **Oversight's** request for fiscal impact.

Officials at the following cities: Ashland, Belton, Bernie, Bonne Terre, Boonville, California, Cape Girardeau, Clayton, Dardenne Prairie, Excelsior Springs, Florissant, Frontenac, Fulton, Gladstone, Grandview, Harrisonville, Independence, Joplin, Kearney, Knob Noster, Ladue, Lake Ozark, Lee Summit, Liberty, Louisiana, Maryland Heights, Maryville, Mexico, Monett, Neosho, O'Fallon, Pacific, Peculiar, Pineville, Popular Bluff, Raytown, Republic, Richmond, Rolla, Sedalia, Springfield, St. Charles, St. Louis, St. Robert, Sugar Creek, Sullivan, Warrensburg, Warrenton, Webb City, Weldon Spring and West Plains did not respond to **Oversight's** request for fiscal impact.

Officials at the following colleges: Crowder, East Central Community College, Harris-Stowe, Jefferson College, Lincoln University, Metropolitan Community College, Moberly Area Community College, Missouri Southern State University, Missouri Western State University, Missouri State University, Northwest Missouri State University, Southeast Missouri State University, State Fair Community College, St. Charles Community College, St. Louis Community College, Three Rivers Community College, Truman State University and the University of Missouri did not respond to **Oversight's** request for 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

Savings - relating to design build contracts (67.5050 and 67.5060) \$0 to Unknown \$0 to Unknown \$0 to Unknown

Savings - relating to speciality construction design contracts (67.5070) \$0 to Unknown \$0 to Unknown \$0 to Unknown

Costs - relating to design build contracts (67.5050 and 67.5060) \$0 to
(Unknown) \$0 to
(Unknown) \$0 to
(Unknown)

**ESTIMATED NET EFFECT ON
 LOCAL POLITICAL SUBDIVISIONS \$0 to Unknown \$0 to Unknown \$0 to Unknown**

FISCAL IMPACT - Small Business

There could be a direct fiscal impact to small businesses as a result of this proposal.

FISCAL DESCRIPTION

This bill repeals the provision prohibiting a construction manager from bidding or performing the actual construction on a public works project in which he is acting as construction manager and any construction firm which controls, is controlled by, or shares common ownership or control with the construction manager from being allowed to bid on or perform work on the project. The bill allows a construction manager to bid on or perform any of the actual construction on a public works project in which he is acting as a construction manager but only if the construction manager submits a sealed bid in the same manner as a trade contractor. The bill specifies that all successful bidders that contract directly with the public owner must provide payment and performance bonds to the public owner.

FISCAL DESCRIPTION (continued)

The bill revises the provision that prohibits a construction management services contract from being awarded by a public owner on a negotiated basis if the construction manager or a firm that controls, is controlled by, or shares common ownership or control with the construction manager, guarantees, warrants, or otherwise assumes financial responsibility for the work of others on the project; provides the public owner with a guaranteed maximum price for the work of others on the project; or furnishes or guarantees a performance or payment bond for other contractor on the project and requires the contract for construction management services to be let by competitive bidding by allowing construction management services to be awarded on a negotiated basis regardless of those conditions and allows the construction manager to enter into contracts with the successful bidders. The bill authorizes any political subdivision to enter into design build contracts for construction projects. 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 design builders;
- (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 prior to opening the cost proposal;
- (4) Requires a political subdivision to award stipends to pre-qualified offerors under conditions specified 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 the 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 providing services for the design-builder to be licensed or authorized in this state 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.

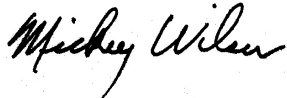
The proposal also authorizes any city to enter into a specialty construction design contract for a wastewater and water treatment project, and precluded the Department of Natural Resources from precluding specialty construction design contracts for consideration for funding provided by the Water and Wastewater Loan Fund.

FISCAL DESCRIPTION (continued)

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 Jefferson
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
City of Columbia
Department of Higher Education
Department of Natural Resources
Department of Health and Senior Services
Metropolitan St. Louis Sewer District
State Technical College of Missouri
University of Central Missouri



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April 22, 2015

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April 22, 2015