

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2270-04  
Bill No.: HCS for HB 1042  
Subject: Contractors and Contractor; Political Subdivisions; Licenses - Professional  
Type: Original  
Date: April 24, 2015

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Bill Summary: This proposal modifies provisions related to design-build contracts.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>  |            |            |            |
|--|------------|------------|------------|
| FUND AFFECTED  | FY 2016    | FY 2017    | FY 2018    |
|  |            |            |            |
| <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 2016    | FY 2017    | FY 2018    |
|   |            |            |            |
| <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 8 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 **University of Missouri System** assume 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.

**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.

Officials at the **Department of Conservation**, the **Department of Higher Education**, the **Office of Administrations' Division of Purchasing and Materials Management and Facilities Management, Design, and Construction**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Department of Health and Senior Services**, the **Department of Natural Resources**, the **Department of Economic Development** and the **Department of Labor and Industrial Relations** each assume no fiscal impact to their respective agencies from this proposal.

Officials at the **Callaway County Commission**, **St. Louis County**, 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 assume no fiscal impact to their respective entities from this proposal.

Officials at the Missouri Department of Transportation did not respond to **Oversight's** request for fiscal impact on this proposal.

**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.

ASSUMPTION (continued)

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. 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, Jefferson City, 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 and Truman State University did not respond to **Oversight's** request for fiscal impact.

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

| <u>FISCAL IMPACT - Local Government</u>  | FY 2016<br>(10 Mo.) | FY 2017             | FY 2018             |
|--|---------------------|---------------------|---------------------|
| <b>LOCAL POLITICAL SUBDIVISIONS</b>  |                     |                     |                     |
| <u>Savings</u> - relating to design build contracts (§§67.5050, 67.5060)         | \$0 to Unknown      | \$0 to Unknown      | \$0 to Unknown      |
| <u>Savings</u> - relating to speciality construction design contracts (§67.5070) | \$0 to Unknown      | \$0 to Unknown      | \$0 to Unknown      |
| <u>Costs</u> - relating to design build contracts (§§67.5050, 67.5060)           | \$0 to<br>(Unknown) | \$0 to<br>(Unknown) | \$0 to<br>(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

**CONSTRUCTION MANAGER-AT-RISK CONTRACTS (Section 67.5050)**

This bill allows political subdivisions to use the construction manager-at-risk method for construction projects. In its main provisions, the bill:

- (1) Requires that, before selecting a construction manager-at risk, or during the selection process, the political subdivision must select an engineer or architect to prepare the construction documents, with full responsibility for complying with all applicable state laws;
- (2) Authorizes a political subdivision to use a one-step or two step process to select the construction manager-at-risk. The necessary procedures for both processes are outlined in the bill. The political subdivision is authorized to determine how it will publish its notice of request for proposals or qualifications;
- (3) Requires the political subdivision to publicly open and read aloud the names of the construction managers, and to evaluate and rank each proposal within 45 days of the opening of the proposals. The construction manager-at-risk that offers the best value must be selected. If the political subdivision fails to negotiate a satisfactory contract with the selected construction manager-at risk, the political subdivision must negotiate with the next highest ranked construction manager-at-risk;

FISCAL DESCRIPTION (continued)

- (4) Requires the construction manager-at-risk to publicly advertise and receive bids from trade contractors or subcontractors for the performance of all major elements of the work. The construction manager-at-risk can perform certain work if it provides the best value and is selected by the political subdivision. Both the political subdivision and the construction manager-at-risk must evaluate the bids, and the political subdivision may compensate the construction manager-at-risk if the political subdivision requires that a different bid be accepted than the one recommended by the construction manager; and
- (5) Specifies the procedures for when a selected trade contractor or subcontractor defaults in the performance of its work.

DESIGN-BUILD CONTRACTS (Section 67.5060)

The bill also authorizes political subdivisions to enter into design-build contracts for construction projects exceeding \$25 million. In its main provisions, the bill:

- (1) Provides definitions for certain terms used in the bill, including "design-build," "design-build contract," "design-build project," "design-builder," "design criteria consultant," "design criteria package," "design professional services," "proposal," "public facility construction project," "qualifications-based selection," "request for proposal," and "stipend";
- (2) Requires that, in order to protect the health, safety, and general welfare of the public, a design professional must own at least a 50% interest in the legal entity that is or contracts with the design-builder, or at least 50% of the members of the board of directors of the legal entity that is or contracts with the design builder must be design professionals;
- (3) Requires political subdivisions planning a design-build project to employ or retain a design criteria consultant as defined in the bill, and an architect or engineer, as appropriate to the project type and duly licensed in this state, to assist with the design criteria package, preparation of the request for proposals, pre-qualification of design-builders, and evaluation of proposals;
- (4) Requires political subdivisions to advertise the request for proposal in a certain manner and include certain information in the request for proposal;
- (5) Creates a three-stage process for the solicitation of proposals: phase I will be the solicitation of qualifications of the design-build team; phase II will be the solicitation of a technical proposal including conceptual design for the project; and phase III will be the proposal of the construction cost. Details regarding the requirements for each phase are set out in the bill;
- (6) Authorizes a political subdivision to pay a reasonable stipend, the amount of which must be established in the request for proposal, to each prequalified design-builder whose proposal is responsive but not accepted;

FISCAL DESCRIPTION (continued)

- (7) Provides that the payment bond requirements that apply to public works contracts will also apply to design-build projects; and
- (8) Requires any person or firm providing architectural, engineering, landscape architecture, or land-surveying services to be licensed. The design-builder is exempt from the requirements involving certificates of registration or authority if the architectural, engineering, or land-surveying services are performed by subcontractors who are properly licensed. The authority to use design-build and design-build contracts expires on September 1, 2025.

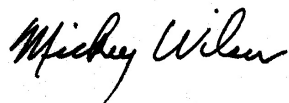
SPECIALTY CONSTRUCTION DESIGN (Section 67.5070)

The bill authorizes a political subdivision to require that a contractor provide a specialty construction design, as defined in the bill, as a portion of a construction contract if the requirement is specified in the bid documents written by a design professional. When disbursing grants under the Community Development Block Grant program, the Department of Economic Development is prohibited from rejecting waste water or water treatment projects solely on their utilization of specialty construction or specialty construction design. The Department of Natural Resources is prohibited from denying funds from the Water and Wastewater Loan Fund to projects based on their use of specialty construction or specialty construction design contracts.

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  
Department of Economic Development  
Office of Administration  
    Facilities Management, Design and Construction  
    Division of Purchasing and Materials Management  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Natural Resources  
Department of Labor and Industrial Relations  
Department of Health and Senior Services  
Callaway County Commission  
Platte County Board of Election Commission  
Department of Higher Education  
St. Louis County  
University of Missouri System  
Department of Conservation  
City of Columbia  
Metropolitan St. Louis Sewer District  
State Technical College of Missouri  
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