

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1000-02  
Bill No.: HB 369  
Subject: Contracts and Contractors; Public Buildings; State Departments  
Type: Original  
Date: February 6, 2007

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Bill Summary: Would establish the "Fairness in Public Construction Act".

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<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 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<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>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration, Administrative Hearing Commission, Division of Facilities Management, Design and Construction, Division of Purchasing and Materials Management, the Department of Economic Development, the University of Central Missouri, the University of Missouri, Linn State Technical College, the Metropolitan Community Colleges, St. Louis County, and the City of Centralia** assume the proposal would have no fiscal impact to their organizations.

In response to a similar proposal (SB 339, LR 1248-01), officials from the **Department of Higher Education** assumed the proposal would have no fiscal impact to their organization.

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume the proposal would require the Division of Labor Standards to field additional phone calls from constituents. In addition, the proposed legislation would require the Labor and Industrial Relations Commission to conduct evidentiary hearing and issue final agency determinations on appeals from PLA determinations of state or political subdivisions. DOLIR assumes the Commission would require 0.5 FTE Office Support Staff and 0.25 FTE Attorney to promulgate rules and regulations and handle the increased amount of appeal cases that would be brought before the Commission.

DOLIR submitted an estimated cost for the new employees and related equipment and expense totaling \$30,957 for FY 2008, \$34,054 for FY 2009, and \$34,906 for FY 2010.

**Oversight** assumes that any additional workload created by this proposal would be minimal and could be absorbed with existing resources. If unanticipated expenses are incurred or if multiple proposals are enacted which create additional workload for DOLIR, resources could be requested through the budget process.

Officials from the **Department of Elementary and Secondary Education** defer to the Department of Labor and Industrial Relations for an estimate of the fiscal impact of the proposal.

In response to a similar proposal (SB 339, LR 1248-01), officials from **Truman State University** stated they were unable to calculate the fiscal impact to their organization.

Officials from **Missouri State University** assumed the proposal could have an unknown cost to their organization since it appears to allow project labor agreements.

ASSUMPTION (continued)

Officials from the **City of West Plains** stated the proposal would appear to have an unknown cost to their organization.

Officials from **Lincoln University** stated that the provision that allows a union-only contract may have a long term negative impact. If the various state agencies were to exercise this option frequently, and non-union labor would not be allowed to bid state contracts, the increased percentage of union-only contracts (increased demand) might encourage union labor (limited supply) to increase their wage contracts, which would raise the Prevailing Wage. This would have a direct impact on the University.

**Oversight** assumes that any impact from this proposal to Lincoln University would be minimal.

Officials from the **City of Kansas City** stated that the City expects a negative fiscal impact in the form of additional costs for delays in the enforcement of the statutory penalty, the time it will take to collect any penalties, and the time and effort it will take to complete all administrative and court remedies. The City did not estimate the amount of impact because the amount of the impact depends on how many "employers" (instead of "contractors") are found to be in violation of the law.

Under existing law, the City has collected statutory penalties as shown below the past three calendar years:

In calendar year 2004 received \$5,110 in statutory penalties

In calendar year 2005 received \$4,830 in statutory penalties

In calendar year 2006 received \$6,850 in statutory penalties

**Oversight** assumes that this proposal would have an unknown negative fiscal impact to local governments due to the additional compliance requirements for contract and employer enforcement, and the additional notice and hearing requirements if the local government determines a project labor agreement would be suitable for a given project.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>LOCAL GOVERNMENTS</b>			
Cost - compliance and enforcement	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT TO LOCAL GOVERNMENTS</b>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>	<u><b>(Unknown)</b></u>

FISCAL IMPACT - Small Business

This proposal could have a fiscal impact to small businesses which contract with the state or its political subdivisions.

### FISCAL DESCRIPTION

This proposal would create the "Fairness in Public Construction Act". The state, and any agency or instrumentality of the state would be prohibited from requiring, or prohibiting, bidders from entering into project labor agreements when contracting for the construction of public projects funded by more than fifty percent by the state. The act would also provide conditions under which the state or a political subdivision could enter into a project labor agreement. The intent to enter into a project labor agreement would be published and a public hearing conducted on the project labor agreement.

The proposal would bar contractors and subcontractors from receiving subsidies, supplements, or rebates if the practice would reduce wages paid by the employer below the prevailing wage rate.

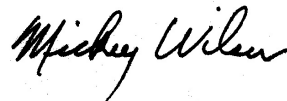
Violators would be liable to the public body for double the amount by which the rebate reduced the wage rate below the prevailing wage. The entity providing and receiving the subsidy, supplement, or rebate would be required to report the date and amount of each, and the disclosure report would be a public record.

The proposal would repeal language requiring contractor's bonds to guarantee performance of the prevailing wage clause provided by contract. The proposal would increase the penalty for prevailing wage law violations from \$10 per workman employed during the violation to \$100, and provides a dispute process for prevailing wage violations.

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

Office of Administration  
    Administrative Hearing Commission  
    Division of Facilities Management, Design and Construction  
    Division of Purchasing and Materials Management  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Labor and Industrial Relations  
Lincoln University  
Missouri State University  
University of Central Missouri  
University of Missouri  
Linn State Technical College  
Metropolitan Community Colleges  
St. Louis County  
City of Centralia  
City of Kansas City  
City of West Plains



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