

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1766-04  
Bill No.: SCS for HB 596  
Subject: Contracts and Contractors; Roads and Highways; Transportation Department  
Type: Original  
Date: April 20, 2007

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Bill Summary: This proposal authorizes the state highway and transportation commission to accept annual bid bond for its construction and maintenance projects.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |                |                       |                      |
|---|----------------|-----------------------|----------------------|
| <b>FUND AFFECTED</b>  | <b>FY 2008</b> | <b>FY 2009</b>        | <b>FY 2010</b>       |
| General Revenue   | \$0            | (\$12,870,000)        | (\$9,433,500)        |
|   |                |                       |                      |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>\$0</b>     | <b>(\$12,870,000)</b> | <b>(\$9,433,500)</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |                |                     |                     |
|---|----------------|---------------------|---------------------|
| <b>FUND AFFECTED</b>  | <b>FY 2008</b> | <b>FY 2009</b>      | <b>FY 2010</b>      |
| Road Fund   | \$0            | \$26,705,250        | \$19,574,512        |
| School District Fund  | \$0            | (\$4,290,000)       | (\$3,144,500)       |
| Conservation Fund   | \$0            | (\$536,250)         | (\$393,063)         |
| Park and Soil Fund  | \$0            | (\$429,000)         | (\$314,450)         |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>State Funds</b> | <b>\$0</b>     | <b>\$21,450,000</b> | <b>\$15,722,499</b> |

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                          |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2008</b> | <b>FY 2009</b> | <b>FY 2010</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>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 2008</b> | <b>FY 2009</b> | <b>FY 2010</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated<br/>Net Effect on<br/>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).

| ESTIMATED NET EFFECT ON LOCAL FUNDS |         |               |               |
|-------------------------------------|---------|---------------|---------------|
| FUND AFFECTED                       | FY 2008 | FY 2009       | FY 2010       |
| Local Government                    | \$0     | (\$8,580,000) | (\$6,289,000) |

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Department of Revenue** assume that there is no fiscal impact from this proposal.

#### Section 144.062 Sales Tax Exemption on MoDOT projects

Officials at the **Missouri Department of Transportation (MoDOT)** assume this legislation exempts contractors from paying sales tax on materials used in MoDOT projects. The sales tax which contractors currently pay on materials purchased for MoDOT projects is included in the

ASSUMPTION (continued)

project cost which is paid by MoDOT. Assuming that contractors would reduce their project costs due to the ability to purchase materials on a tax-exempt basis, this bill would result in a cost savings for MoDOT.

Based on 2007-2011 Statewide Transportation Improvement Program (STIP); 50 percent of construction contracts is labor, 50 percent is materials; July 1, 2008 effective date; sales tax rate of 4.225%. The cost savings were calculated as follows:

| Fiscal Year | STIP Awards     | % Materials | Material Cost | Sales Tax Rate | Cost Savings |
|-------------|-----------------|-------------|---------------|----------------|--------------|
| 2008        | \$1,189,100,000 | 50%         | \$594,550,000 | 4.225%         | \$25,119,738 |
| 2009        | \$858,000,000   | 50%         | \$429,000,000 | 4.225%         | \$18,125,250 |
| 2010        | \$628,900,000   | 50%         | \$314,450,000 | 4.225%         | \$13,285,513 |
| 2011        | \$490,000,000   | 50%         | \$245,000,000 | 4.225%         | \$10,351,250 |
| 2012        | \$490,000,000   | 50%         | \$245,000,000 | 4.225%         | \$10,351,250 |

MoDOT assumes there would be an additional amount of cost savings for the local sales tax, however the amount would vary by city/county. Therefore the additional savings is unknown.

**Oversight** calculated the revenue impact to include a tax loss impact to local government with a sales tax rate of 2%. The chart below shows the breakdown of the tax impact on the projected materials cost.

**Oversight** assumes this proposal would create a savings for the Road Fund of \$26.7 million for FY2009 and \$19.5 million for FY2010. This savings is passed on to MoDOT as it is calculated into the materials cost submitted by the vendors. Combined gains in the Road Fund equal the losses to the General Revenue Fund, School District Trust Fund, Conservation Fund, Parks and Soils Fund and local city/county funds from this proposal.

**Oversight** assumes that a reduction in the federal reimbursement may occur as a result of the tax loss. The federal impact is unknown.

ASSUMPTION (continued)

|                            | <b>Fiscal Year 2009</b> | <b>Fiscal Year 2010</b> |
|----------------------------|-------------------------|-------------------------|
| Materials Cost             | \$429,000,000           | \$314,450,000           |
| GR Fund 3%                 | \$12,870,000            | \$9,433,500             |
| School Fund 1%             | \$4,290,000             | \$3,144,500             |
| Conservation Fund .125%    | \$536,000               | \$393,063               |
| Parks and Soil Fund .1%    | \$429,000               | \$314,450               |
| Local 2%                   | \$8,580,000             | \$6,289,000             |
| Total Savings to Road Fund | \$26,705,250            | \$19,574,512            |

**Section 390.021 UCR Act**

In response to similar legislation filed this year (HB 744) officials at the **Missouri Department of Transportation (MoDOT)** assume the Unified Carrier Registration (UCR) Agreement was established in the federal UCR Act of 2005, as part of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59, August 10, 2005). The UCR Act repeals and replaces the federal Single State Registration System (SSRS), the current system under which the states operate, effective January 1, 2007.

Upon the January 1, 2007 repeal of SSRS, states operating under SSRS will be prohibited from continuing to collect interstate regulatory license fees and regulatory license fees from interstate motor carriers that are exempted from SSRS, regardless of whether or not the state has joined the UCR Agreement. This legislation is necessary to allow the State to participate in the new Federal registration act "UCR" and continue to collect fees. If Missouri does not pass this legislation, we will be prohibited from future participation.

Passage of this section will allow MoDOT to continue to collect an estimated \$2,342,000 in registration fees. If this legislation does not pass, Missouri forfeits the registration fees to another state who does participate in UCR. MoDOT assumes no fiscal impact as long as this legislation passes. If not the department will have a \$2,342,000 loss in registration fees annually

**Oversight** assumes that the state will comply with federal law and not lose the annual registration fee revenues.

| <u>FISCAL IMPACT - State Government</u>               | FY 2008<br>(10 Mo.) | FY 2009                      | FY 2010                     |
|---|---------------------|------------------------------|-----------------------------|
| <b>GENERAL REVENUE</b>                                |                     |                              |                             |
| <u>Loss</u> - General Revenue                         |                     |                              |                             |
| Exemption of sales tax on<br>MoDOT projects (227.115) | <u>\$0</u>          | <u>(\$12,870,000)</u>        | <u>(\$9,433,500)</u>        |
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE</b>    | <b><u>\$0</u></b>   | <b><u>(\$12,870,000)</u></b> | <b><u>(\$9,433,500)</u></b> |
| <b>OTHER STATE FUNDS</b>                              |                     |                              |                             |
| <u>Savings</u> - Road Fund                            |                     |                              |                             |
| Exemption of sales tax on<br>MoDOT projects (227.115) | \$0                 | \$26,705,250                 | \$19,574,512                |
| <u>Loss</u> - School District Fund                    |                     |                              |                             |
| Exemption of sales tax on<br>MoDOT projects (227.115) | \$0                 | (\$4,290,000)                | (\$3,144,500)               |
| <u>Loss</u> - Conservation Fund                       |                     |                              |                             |
| Exemption of sales tax on<br>MoDOT projects (227.115) | \$0                 | (\$536,250)                  | (\$393,063)                 |
| <u>Loss</u> - Park and Soil Fund                      |                     |                              |                             |
| Exemption of sales tax on<br>MoDOT projects (227.115) | <u>\$0</u>          | <u>(\$429,000)</u>           | <u>(\$314,450)</u>          |
| <b>ESTIMATED NET EFFECT ON<br/>OTHER STATE FUNDS</b>  | <b><u>\$0</u></b>   | <b><u>\$21,450,000</u></b>   | <b><u>\$15,722,499</u></b>  |

| <u>FISCAL IMPACT - Local Government</u>                  | FY 2008<br>(10 Mo.) | FY 2009                     | FY 2010                     |
|--|---------------------|-----------------------------|-----------------------------|
| <b>CITY AND COUNTY FUNDS</b>                             |                     |                             |                             |
| <u>Loss - City and County Funds</u>                      |                     |                             |                             |
| Exemption of sales tax on<br>MoDOT projects (227.115)    | <u>\$0</u>          | <u>(\$8,580,000)</u>        | <u>(\$6,289,000)</u>        |
| <b>ESTIMATED NET EFFECT ON<br/>CITY AND COUNTY FUNDS</b> | <b><u>\$0</u></b>   | <b><u>(\$8,580,000)</u></b> | <b><u>(\$6,289,000)</u></b> |

FISCAL IMPACT - Small Business

There may be an impact to small businesses that do work for MoDOT.

FISCAL DESCRIPTION

Modifies various provisions relating to transportation.

ANNUAL BID BOND - This act provides that the commission is authorized to accept an annual bid bond for its construction and maintenance projects. The commission shall prescribe the form and content of an annual bid bond. This portion of the act is identical to SCS/SB 52 (2007).

DESIGN-BUILD BONDING REQUIREMENTS - This act modifies the bid bond and performance bond requirements for certain design-build highway projects. The current statutory requirements may be modified by the commission for any design-build highway project contract which is designated by the commission as a "design-build-finance-maintain" project, and for which the contract with the design-builder exceeds 25 years. For such projects, the commission shall require the design-builder to provide such bonds in such terms, durations, and amounts as it may determine to be adequate for its protection and provided by a surety or sureties satisfactory to the commission, including but not limited to:

- (1) A bid or proposal bond in an amount of not less than \$5 million;
- (2) A performance bond or bonds for the construction period specified in the design-build highway project contract in an amount of not less than the maximum cost of construction work performed or caused to be performed by the design-builder in any calendar year of such period; and
- (3) A payment bond or bonds that shall be enforceable under section 522.300, RSMo, for the

FISCAL DESCRIPTION (continued)

protection of all persons supplying labor and material in carrying out the work provided for in the design-build highway project contract. The amount of the payment bond or bonds shall equal the total amount payable under the terms of the design-build highway project contract unless the commission determines in writing supported by specific findings that a payment bond or bonds in such amount is impractical, in which case the commission shall establish the amount of the payment bond or bonds; except that, the amount of the payment bond or bonds shall not be less than the amount of the performance bond or bonds (Section 227.107).

REGULATION OF BILLBOARDS - Under this act, the Highways and Transportation Commission is authorized to void billboard permits without paying compensation under the following conditions:

- (1) When there has been any misrepresentation of a material fact by the applicant on a permit application and the sign is removed under law;
- (2) When the commission determines that a change has been made to a conforming sign by the sign owner and the sign has been removed under law; or
- (3) When the commission determines that a substantial change has been made to a non-conforming sign by the sign owner such that the sign's nonconforming status was terminated and the sign was removed under the commission's administrative rules for maintenance of nonconforming signs.

The commission may also void any permit when the commission determines that such permit has been erroneously issued by Department of Transportation staff in violation of any state law or administrative rule. The billboard shall be subject to removal and compensation shall be paid pursuant to law.

UNIFIED CARRIER REGISTRATION ACT - This act authorizes the State Highways and Transportation Commission to take the necessary steps to implement and administer a state plan to conform with the Unified Carrier Registration Act (UCR Act) of 2005. The UCR Act includes provisions to eliminate the Single State Registration System (SSRS) by January 2007 and replace it with the Unified Carrier Registration (UCR) Agreement.

Under the act, the Commission may submit to the proper federal authorities, amend and carry out a state plan to qualify as a base-state and to participate in the UCR plan and administer the UCR Agreement. The Commission is authorized to administer the UCR registration of Missouri domiciled motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies, and persons domiciled in non-participating states who have designated Missouri as their base-state under the UCR Act. The Commission is further authorized to receive, collect,



FISCAL DESCRIPTION (continued)

process, deposit, transfer, distribute, and refund UCR registration fees. The Commission is also authorized to enter into agreements with any U.S. agencies.

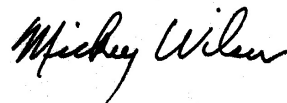
Under the act, every motor carrier, motor private carrier, broker, freight forwarder, and leasing company that has its principal place of business within Missouri, and every such person who has designated this state as the person's base-state under the provisions of the UCR Act, shall timely complete and file with the Commission all the forms required by the UCR agreement and the UCR implementing regulations, and shall pay the required UCR registration fees to the Commission.

The act specifically provides that implementing the UCR Act shall not be construed as exempting any motor carrier or any person controlled by a motor carrier, from any of the requirements of Chapter 622 or Chapter 390 (Section 390.021). The act also repeals Section 390.071 (pertaining to the issuance of interstate motor carrier permits) and Section 622.095 (relating to the single state registration system).

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

Missouri Department of Transportation  
Office of the Secretary of State  
Department of Revenue



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Director  
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