

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1917-03
Bill No.: HB 928
Subject: State Departments; Political Subdivisions; Business and Commerce
Type: Original
Date: February 28, 2017

Bill Summary: This proposal prohibits a state agency or instrumentality from directly competing with a private business.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
State Parks Earnings	\$0 or (\$3,380,000)	\$0 or (\$3,380,000)	\$0 or (\$3,380,000)
Conservation Commission Fund	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)
Colleges and Universities	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Greater than \$3,380,000)	\$0 or (Greater than \$3,380,000)	\$0 or (Greater than \$3,380,000)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
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 2018	FY 2019	FY 2020
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Facilities Management Design and Construction (OA-FMDC)** assume this bill would prohibit State agencies and political subdivisions from offering "any good or service for rent or purchase to the public" if a private business in the same county, or city not within a county, offers substantially the same good or service, unless the good or service falls under one of the listed exceptions. This version eliminates the exception for goods or services offered on or before August 28, 2017. However, OA-FMDC assumes that most existing State agency functions would not be affected by this bill because most State agency functions are not a "good or service" offered "for rent or purchase to the public" or one of the listed exceptions would apply. Therefore, OA-FMDC assumes there will not be any significant impact to their operations and they should be able to maintain all of their current functions. However, if FMDC has interpreted this bill incorrectly, there could be a decrease in the need for FMDC's services and a significant fiscal impact could result in an undetermined amount.

This version adds language which states: "No revenue collected by the state ... from the sale or rental of goods or services allowed under subsection 1 of this section shall be: 1) Used to fund the offering of any other good or service offered by the state or any political subdivision thereof; or (2) Transferred into any other account, including the general revenue of the state or political subdivision, unless such transfer is to dispose of assets upon the termination of the offering of the good or service." OA-FMDC is unclear what the effect of such language would be. However, this section could potentially be interpreted as restricting what OA-FMDC can do with the funds that are obtain from renting out excess State property.

Officials from the **Office of Administration - Budget and Planning (B&P)** assumes no direct impact to general or total state revenue as a result of this proposal. B&P does not have the data to estimate the potential indirect impact.

Officials from the **Department of Health and Senior Services (DHSS)** estimate an unknown impact as a result of the proposed legislation. Currently there are no goods or services offered by DHSS that are not allowed under Section 407.312.1 of the proposed legislation. However the legislation sets up the potential that DHSS may need to forgo future federal grant opportunities to provide goods or services. These opportunities are typically for public health conditions that are emerging as a threat to the health and safety of Missouri citizens and it is likely that a specific statute authorizing the offering of the goods or services may not exist.

ASSUMPTION (continued)

In some instances, the grant may require the recipient to pay a nominal fee or a fee based on a sliding scale according to income. The goods or services offered through the grants are provided to address populations who could not afford to purchase the goods or services offered through a private entity. The goods or services offered would be interventions to prevent or stop the rapid spread of a serious public health concern. Without access to these needed goods and services, costs associated with other existing program services and other medical costs would increase.

Oversight assumes the potential that DHSS may need to forgo future federal grant opportunities to provide goods or services is prospective and will not show a fiscal impact for the three years reflected in the fiscal note.

Officials from the **Department of Natural Resources (DNR)** state section 407.312.3 would prohibit the Department from continuing to possess permits or other authorizations from federal and state entities to offer goods and services in state parks and historic sites throughout the state. Revenues generated have average \$3.38 million over the last 2 years. The estimated revenue loss cited above is based on a two year average (FY 2015 and FY 2016). Potentially affected parks and sites include: Bennett Spring; Missouri State Museum/Jefferson Landing; Edward "Ted" and Pat Jones-Confluence Point; Harry S Truman; Katy Trail; Knob Noster; Lake Wappapello; Long Branch; Mark Twain; Pomme de Terre; Sam A. Baker; Stockton; Table Rock; and Thousand Hills. Based on the location of the leased land in relation to the full acreage of the park or historic site, the impact on state revenues could be between \$0 - \$3.38 million annually.

Officials from the **Missouri Department of Conservation** assume an unknown but greater than \$100,000 fiscal impact to their agency.

Officials from the **Bakersfield R-IV School District** assume this proposal could impact the district with cost of \$20,000 annually in increased fees for therapist.

Officials from the **Bates County Memorial Hospital** state public hospitals operate in an environment that by its nature exists because it fills the gaps where private business is not able to meet the needs of the communities. Many public hospitals employ physicians in communities where physicians in private practice also work and compete. These hospitals employ the physicians simply because communities don't have enough private physician practice business owners. Often the operations of these business also include the leasing of office space, child care centers, adult day days centers, and other business operations that complement the hospital/healthcare delivery.

ASSUMPTION (continued)

Eliminating any or part of the competitive operations would likely be enough of a financial drain to cause the closure of the entire hospital. Many of these public hospitals are the sole hospital in the county in which they operate and the largest business employer in the county.

Officials from the **Herman Area District Hospital** state the Hermann Area District Hospital operates four clinics for which our net revenue is slightly over \$3,000,000. Presently, two of the clinics are currently part of large 501c3 hospitals which would say are private businesses. This would greatly diminish the health care services that are available especially within the Hermann area leaving the a public with a void in healthcare and would greatly limit our facilities ability to stay in operation since a large portion of our ancillary business is generated out of these clinics.

Officials from the **University of Missouri** is unable determine whether or not we would be subject to the proposed bill. To the extent it is determined to be applicable to the university it could have a significant financial impact but we are unable to quantify at this time.

Officials from the **Attorney General's Office, the Missouri Lottery Commission, the Department of Higher Education, Office of the State Courts Administrator, Joint Committee on Administrative Rules, the Office of the Lieutenant Governor, the Missouri Consolidated Health Care Plan, the MoDOT & Patrol Employees' Retirement System, the Joint Committee on Public Retirement, the Office of the Governor, the Missouri Ethics Commission, the Office of Prosecution Services, the Office of the State Public Defender, the State Tax Commission, Department of Public Safety - Division of Alcohol and Tobacco Control, Missouri Gaming Commission, Division of Fire Safety, Missouri Highway Patrol and the Missouri Veterans Commission, the Department of Mental Health, the Office of Administration - Information Technology Services Division, Division of Purchasing, the Office of the Secretary of State, the Missouri Senate, the Department of Insurance, Financial Institutions and Professional Registration, the Department of Labor and Industrial Relations, the Missouri State Employee's Retirement System, the Department of Transportation, the Missouri House of Representatives, the Department of Revenue, the Department of Agriculture, the Department of Elementary and Secondary Education the Office of the State Auditor, the Department of Social Services and the Department of Corrections** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **City of Kansas City and Callaway County** each assume the proposal will have no fiscal impact on their respective organizations.

ASSUMPTION (continued)

Officials from the **Kirksville R-III School District** and the **West Plains School District** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight cannot be certain what government goods or services offered to the public would be forbidden under terms of this proposal. Oversight will show losses to state funds, colleges and universities and to political subdivisions as \$0 (the activities cited by respondents are permitted under the exceptions set down in proposed Section 407.312.1) or the amount suggested by the respondent (the activities cited would not be permitted under terms of the proposal).

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
STATE PARKS EARNINGS FUND			
<u>Loss - DNR</u>	\$0 or	\$0 or	\$0 or
Prohibiting the sale of good and services in state parks	<u>(\$3,380,000)</u>	<u>(\$3,380,000)</u>	<u>(\$3,380,000)</u>
ESTIMATED NET EFFECT ON THE STATE PARKS EARNINGS FUND	<u>\$0 or (\$3,380,000)</u>	<u>\$0 or (\$3,380,000)</u>	<u>\$0 or (\$3,380,000)</u>
CONSERVATION COMMISSION FUND			
<u>Loss - MDC</u>	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)	\$0 or (Greater than \$100,000)
Sales of Goods and Services	<u>(\$100,000)</u>	<u>(\$100,000)</u>	<u>(\$100,000)</u>
ESTIMATED NET EFFECT ON THE CONSERVATION COMMISSION FUND	<u>\$0 or (Greater than \$100,000)</u>	<u>\$0 or (Greater than \$100,000)</u>	<u>\$0 or (Greater than \$100,000)</u>
COLLEGES AND UNIVERSITIES			
<u>Loss - Colleges and Universities</u>	\$0 or	\$0 or	\$0 or
Sales of Goods and Services	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO COLLEGES AND UNIVERSITIES	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
LOCAL POLITICAL SUBDIVISIONS			
<u>Loss - Locals</u>	<u>\$0 or</u>	<u>\$0 or</u>	<u>\$0 or</u>
Sales of Goods and Services	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>	<u>\$0 or</u> <u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill prohibits the state and political subdivisions thereof from offering goods and services for rent or purchase if a private business offers a substantially comparable good or service in the same area. Exceptions to this prohibition are detailed in the bill. No revenue derived from the sale or rental of goods or services can be used to finance the sale or rental of any other good or service, and the revenue cannot be transferred to any other account including the general revenue of the state.

The state or any political subdivision cannot obtain a federal or state permit or authorization to offer a good or service unless the authorization is limited to governmental entities or no private business applied for the permit or authorization.

This provision must be construed in a manner that favors the sale of goods and services by a private business competing with a governmental entity and in a manner that limits government competition.

Violations of this provision can be reported to the Attorney General for investigation and remedial action or a private business may file a lawsuit to enjoin the state or political subdivision.

The state or a political subdivision thereof cannot agree, contract, or arrange with another entity to offer for sale or rent goods and services that it cannot offer itself.

FISCAL DESCRIPTION (continued)

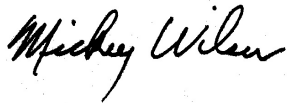
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Agriculture
Department of Elementary and Secondary Education
Department of Higher Education
Department of Health and Senior Services
Department of Insurance, Financial Institutions and Professional Registration
Department of Mental Health
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety
 Alcohol & Tobacco Control
 Fire Safety
 Gaming Commission
 Missouri Highway Patrol
 Veterans Commission
Office of the Governor
Joint Committee on Administrative Rules
Joint Committee on Public Employee Retirement
Missouri Lottery Commission
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Missouri Ethics Commission
Missouri House of Representatives
Office of the Lieutenant Governor
Department of Transportation
Office of Prosecution Services
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Office of Administration
 Administrative Hearing Commission
 Budget and Planning

SOURCES OF INFORMATION (continued)

Office of the State Courts Administrator
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
State Tax Commission
Office of the State Auditor
Department of Natural Resources
City of Kansas City
Callaway County
Kirksville R-III School District
West Plains School District
Bakersfield R-IV School District
Hermann Area District Hospital
Bates County Memorial Hospital
University of Missouri



Mickey Wilson, CPA
Director
February 28, 2017

Ross Strobe
Assistant Director
February 28, 2017