

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2322-02
Bill No.: HCS for HB 1168
Subject: State Departments; Contracts and Contractors; Political Subdivisions
Type: Original
Date: April 26, 2019

Bill Summary: This proposal modifies provisions for state contracts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Various State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 34.167

Officials from the **Office of Administration - Facilities Management Design and Construction (FMDC)** state that for contracts in excess of \$100,000 for professional or technical services performed using a computer, this bill requires the contractor to use a computer software program to verify the hours worked. Although this bill places this requirement in Ch. 34, RSMo, it appears applicable to work performed under Ch. 8 also. Architects or engineers performing design or other professional work for FMDC would be required to comply with this provision. It is unclear whether construction contractors also be required to comply for the portions of their contracts that require work on a computer.

This bill provides that the contractor cannot charge the contracting agency for "access to or the use of" the program. However, this appears only to reference FMDC being able to physically access the software. It is assumed that the cost of obtaining the software and of increased time to comply with this requirement would be passed on to FMDC. It is unknown how much the verification software would cost or how much contractors would increase costs because of this requirement. Therefore, FMDC is unable to provide an estimated cost at this time.

Oversight assumes this version of the proposal changes the requirement of having computer software verification for contractors with a contract of over \$100,000 to giving preference to contractors who use a computer software program to verify the hours billed for work under the contract that is performed on a computer. **Oversight** notes that FMDC assumes the cost of obtaining software and increased time to comply with this requirement would be passed on to their agency. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a range of \$0 (cost is not passed on to FMDC) to (Unknown) to the General Revenue Fund.

Officials from the **Office of Administration - Purchasing Division (Purchasing)** believes there is a potential for increased costs but is unable to determine at this time the level of increase. The proposed legislation would apply to "professional or technical services to be performed using a computer". A large portion of our contracts would fall into that category, therefore limiting our ability to use cooperative procurements and reducing competition. The proposed legislation reads as a requirement that a vendor would have to meet or the state couldn't contract with them - same requirement whether we bid or tried for a co-op. The cost and implementation of such a system may deter vendors from agreeing to such an arrangement.

ASSUMPTION (continued)

Oversight assumes this version of the proposal changes the requirement of having computer software verification for contractors with a contract of over \$100,000 to giving preference to contractors who use a computer software program to verify the hours billed for work under the contract that is performed on a computer. Oversight notes that Purchasing assumes the cost and implementation of such a system may deter vendors from agreeing to such an arrangement, therefore limiting Purchasing's ability to use cooperative procurements and reducing competition. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a range of \$0 (this legislation does not reduce competition) to (Unknown) to the General Revenue Fund.

Oversight assumes Purchasing's reasoning would apply to certain types of contracts for all state agencies, and therefore, various state funds (including federal funds).

Officials from the **Office of Administration - Information Technology Services Division (ITSD)** state that in order to meet the requirements proposed, qualifying contractors would have to secure suitable verification software. It is assumed that the cost to the contractor for the purchase/licensing and support of this software would be passed on to ITSD through the contract pricing. This potential increased cost is indeterminable at this time.

Officials from the **Department of Natural Resources (DNR)** state that this proposal requires state agencies with contracts, exceeding \$100,000 for professional or technical services to be performed using a computer, to require the awarded vendor to use a computer software program to verify the billable hours.

While Section 34.167.3 prohibits the vendor from charging for access to or use of the work verification software program, the Department anticipates the overhead costs of contracts to increase. The fiscal impact would change annually depending on the work being done and the funds impacted. At this time, the fiscal impact from this legislation is undeterminable. Potential Funds affected are: General Revenue Fund, Safe Drinking Water, Soil and Water Sales Tax, Petroleum Storage Tank Insurance Funds, NRP Water Pollution Permit Fee and Federal Funds

Oversight notes that DNR assumes overhead costs of contracts could increase based on this proposal. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a range of \$0 (overhead cost does not increase) to (Unknown) to the General Revenue Fund, Various State Funds and Federal Funds.

ASSUMPTION (continued)

Officials from the **Missouri Department of Conservation (MDC)** stated that the fiscal impact on the Department is unknown because it could deter potential bidders and increase costs to a bid.

Officials from the **Department of Transportation**, the **Office of the Secretary of State** and the **Joint Committee on Administrative Rules** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Attorney General's Office** assumed the proposal will have no fiscal impact on their organization.

Oversight notes that the above mentioned agencies have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Cost - OA - FMDC & ITSD</u>			
Contractor cost for obtaining software and increased time to comply passed on to FMDC	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<u>Cost - OA - Purchasing (for all state agencies) - reduced competition on certain contracts bids</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
VARIOUS STATE FUNDS			
<u>Cost</u> - various state agencies			
reduced competition on certain contracts bids	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
FEDERAL FUNDS			
<u>Cost</u> - Various State Agencies			
reduced competition on certain contracts bids	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2020 (10 Mo.)	 FY 2021	 FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

If small businesses are required to purchase the tracking software in order to be awarded a contract, their business expenses may go up. Additionally, if they are competing against larger companies that may have already invested in this type of software, the small business' bid may reflect a higher price which would cause them to lose the contract.

FISCAL DESCRIPTION

This bill requires any contract in excess of \$100,000 entered into with a state agency for professional or technical services to be performed using a computer to use a work verification software program to verify the hours billed for work done on a computer.

FISCAL DESCRIPTION (continued)

The contract shall further specify that the state shall not be required to pay for hours worked on a computer unless those hours are verifiable by the software or by data collected by the software. The bill contains various exemptions.

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
Department of Transportation
Missouri Department of Conservation
Department of Natural Resources
Office of the Secretary of State
Joint Committee on Administrative Rules



Kyle Rieman
Director
April 26, 2019

Ross Strobe
Assistant Director
April 26, 2019