

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1088
100TH GENERAL ASSEMBLY

2314S.07T

2019

AN ACT

To repeal sections 33.150, 34.040, 34.042, 34.044, 34.047, 37.007, 536.015, 536.025, 536.031, 536.033, 536.200, and 536.205, RSMo, and to enact in lieu thereof fourteen new sections relating to the office of administration.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 33.150, 34.040, 34.042, 34.044, 34.047, 37.007, 536.015, 536.025, 2 536.031, 536.033, 536.200, and 536.205, RSMo, are repealed and fourteen new sections enacted 3 in lieu thereof, to be known as sections 33.150, 34.040, 34.042, 34.044, 34.047, 37.007, 37.960, 4 174.345, 536.015, 536.025, 536.031, 536.033, 536.200, and 536.205, to read as follows:

33.150. The original, or exact digital copy of the original, of all accounts, vouchers and 2 documents approved or to be approved by the commissioner of administration shall be preserved 3 in his office; and copies thereof shall be given without charge to any person, county, city, town, 4 township and school or special road district interested therein, that may require the same for the 5 purpose of being used as evidence in the trial of the cause, and like copies shall be furnished to 6 any corporation or association requiring the same, under tender of the fees allowed by law; 7 provided, that the commissioner of administration may destroy or dispose in the manner provided 8 by law of all paid accounts, vouchers and duplicate receipts of the state treasurer and other 9 documents which may have been on file in the office of the commissioner of administration or 10 his predecessor as custodian of such documents for a period of five years or longer, except such 11 documents as may at the time be the subject of litigation or dispute.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

34.040. 1. All purchases in excess of ~~three~~ **ten** thousand dollars shall be based on competitive bids, except as otherwise provided in this chapter.

2. On any purchase where the estimated expenditure shall be ~~twenty-five~~ **one hundred** thousand dollars or over, except as provided in subsection 6 of this section, the commissioner of administration shall:

(1) Advertise for bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders and may advertise in at least two weekly minority newspapers and may provide such information through an electronic medium available to the general public at least five days before bids for such purchases are to be opened. Other methods of advertisement, which may include minority business purchase councils, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased;

(2) Post a notice of the proposed purchase in his or her office; and

(3) Solicit bids by mail or other reasonable method generally available to the public from prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the commissioner of administration so as to reach such office before the time set for opening bids.

3. The contract shall be let to the lowest and best bidder. The commissioner of administration shall have the right to reject any or all bids and advertise for new bids, or purchase the required supplies on the open market if they can be so purchased at a better price. When bids received pursuant to this section are unreasonable or unacceptable as to terms and conditions, noncompetitive, or the low bid exceeds available funds and it is determined in writing by the commissioner of administration that time or other circumstances will not permit the delay required to resolicit competitive bids, a contract may be negotiated pursuant to this section, provided that each responsible bidder who submitted such bid under the original solicitation is notified of the determination and is given a reasonable opportunity to modify their bid and submit a best and final bid to the state. In cases where the bids received are noncompetitive or the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected bid of any responsible bidder under the original solicitation.

4. The director of the department of revenue shall follow bidding procedures as contained in this chapter and may promulgate rules necessary to establish such procedures. No points shall be awarded on a request for proposal for a contract license office to a bidder for a return-to-the-state provision offer.

5. All bids shall be based on standard specifications wherever such specifications have been approved by the commissioner of administration. The commissioner of administration shall make rules governing the delivery, inspection, storage and distribution of all supplies so purchased and governing the manner in which all claims for supplies delivered shall be

37 submitted, examined, approved and paid. The commissioner shall determine the amount of bond
38 or deposit and the character thereof which shall accompany bids or contracts.

39 6. The department of natural resources may, without the approval of the commissioner
40 of administration required pursuant to this section, enter into contracts of up to five hundred
41 thousand dollars to abate illegal waste tire sites pursuant to section 260.276 when the director
42 of the department determines that urgent action is needed to protect public health, safety, natural
43 resources or the environment. The department shall follow bidding procedures pursuant to this
44 section and may promulgate rules necessary to establish such procedures. Any rule or portion
45 of a rule, as that term is defined in section 536.010, that is created under the authority delegated
46 in this section shall become effective only if it complies with and is subject to all of the
47 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
48 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536
49 to review, to delay the effective date or to disapprove and annul a rule are subsequently held
50 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
51 August 28, 1999, shall be invalid and void.

52 7. The commissioner of administration and other agencies to which the state purchasing
53 law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of
54 the vendor makes sales at retail of tangible personal property or for the purpose of storage, use,
55 or consumption in this state but fails to collect and properly pay the tax as provided in chapter
56 144. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity
57 that is controlled by or is under common control with the vendor, whether through stock
58 ownership or otherwise.

59 **8. The commissioner of administration may hold reverse auctions to procure**
60 **merchandise, supplies, raw materials, or finished goods if price is the primary factor in**
61 **evaluating bids, excluding items in section 34.047. The office of administration shall**
62 **promulgate rules regarding the handling of the reverse auction process.**

63 **9. Any rule or portion of a rule, as that term is defined in section 536.010 that is**
64 **created under the authority delegated in this section shall become effective only if it**
65 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**
66 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
67 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**
68 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
69 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2019,**
70 **shall be invalid and void.**

34.042. 1. When the commissioner of administration determines that the use of
2 competitive bidding is either not practicable or not advantageous to the state, supplies may be

3 procured by competitive proposals. The commissioner shall state the reasons for such
4 determination, and a report containing those reasons shall be maintained with the vouchers or
5 files pertaining to such purchases. All purchases in excess of ~~[five]~~ **ten** thousand dollars to be
6 made under this section shall be based on competitive proposals.

7 2. On any purchase where the estimated expenditure shall be ~~[twenty-five]~~ **one hundred**
8 thousand dollars or over, the commissioner of administration shall:

9 (1) Advertise for proposals in at least two daily newspapers of general circulation in such
10 places as are most likely to reach prospective offerors and may advertise in at least two weekly
11 minority newspapers and may provide such information through an electronic medium available
12 to the general public at least five days before proposals for such purchases are to be opened.
13 Other methods of advertisement, however, may be adopted by the commissioner of
14 administration when such other methods are deemed more advantageous for the supplies to be
15 purchased;

16 (2) Post notice of the proposed purchase; and

17 (3) Solicit proposals by mail or other reasonable method generally available to the public
18 from prospective offerors.

19

20 All proposals for such supplies shall be mailed or delivered to the office of the commissioner of
21 administration so as to reach such office before the time set for opening proposals. Proposals
22 shall be opened in a manner to avoid disclosure of contents to competing offerors during the
23 process of negotiation.

24 3. The contract shall be let to the lowest and best offeror as determined by the evaluation
25 criteria established in the request for proposal and any subsequent negotiations conducted
26 pursuant to this subsection. In determining the lowest and best offeror, as provided in the request
27 for proposals and under rules promulgated by the commissioner of administration, negotiations
28 may be conducted with responsible offerors who submit proposals selected by the commissioner
29 of administration on the basis of reasonable criteria for the purpose of clarifying and assuring full
30 understanding of and responsiveness to the solicitation requirements. Those offerors shall be
31 accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent
32 revision of proposals; **however, a request for proposal may set forth the manner for**
33 **determining which offerors are eligible for negotiation, including, but not limited to, the**
34 **use of shortlisting.** Revisions may be permitted after submission and before award for the
35 purpose of obtaining best and final offers. In conducting negotiations there shall be no disclosure
36 of any information derived from proposals submitted by competing offerors. The commissioner
37 of administration shall have the right to reject any or all proposals and advertise for new

38 proposals or purchase the required supplies on the open market if they can be so purchased at a
39 better price.

40 4. The commissioner shall make available, upon request, to any members of the general
41 assembly, information pertaining to competitive proposals, including the names of bidders and
42 the amount of each bidder's offering for each contract.

34.044. 1. The commissioner of administration may waive the requirement of
2 competitive bids or proposals for supplies when the commissioner has determined in writing that
3 there is only a single feasible source for the supplies. Immediately upon discovering that other
4 feasible sources exist, the commissioner shall rescind the waiver and proceed to procure the
5 supplies through the competitive processes as described in this chapter. A single feasible source
6 exists when:

7 (1) Supplies are proprietary and only available from the manufacturer or a single
8 distributor; or

9 (2) Based on past procurement experience, it is determined that only one distributor
10 services the region in which the supplies are needed; or

11 (3) Supplies are available at a discount from a single distributor for a limited period of
12 time.

13 2. On any single feasible source purchase where the estimated expenditure shall be [~~five~~
14 **ten** thousand dollars or over, the commissioner of administration shall post notice of the
15 proposed purchase. Where the estimated expenditure is [~~twenty-five~~ **one hundred** thousand
16 dollars or over, the commissioner of administration shall also advertise the commissioner's intent
17 to make such purchase in at least two daily newspapers of general circulation in such places as
18 are most likely to reach prospective bidders or offerors and may provide such information
19 through an electronic medium available to the general public at least five days before the contract
20 is to be let. Other methods of advertisement, however, may be adopted by the commissioner of
21 administration when such other methods are deemed more advantageous for the supplies to be
22 purchased. The requirement for advertising may be waived, if not feasible, due to the supplies
23 being available at a discount for only a limited period of time.

34.047. Notwithstanding any provision in section 34.040, section 34.100, or any other
2 law to the contrary, departments shall have the authority to purchase products and services
3 related to information technology when the estimated expenditure of such purchase shall not
4 exceed [~~seventy-five~~ **one hundred fifty** thousand dollars, the length of any contract or
5 agreement does not exceed twelve months, the department complies with the informal methods
6 of procurement established in section 34.040, and 1 CSR 40-1.050(1) for expenditures of less
7 than [~~twenty-five~~ **one hundred** thousand dollars, and the department posts notice of such
8 proposed purchase on the online bidding/vendor registration system maintained by the office of

9 administration. For the purposes of this section, "information technology" shall mean any
10 computer or electronic information equipment or interconnected system that is used in the
11 acquisition, storage, manipulation, management, movement, control, display, switching,
12 interchange, transmission, or reception of information, including audio, graphic, and text.

37.007. Within six months of August 28, 2012, the commissioner of the office of
2 administration shall develop and implement a statewide system or contract with any third party
3 to allow all state agencies and departments to accept payments made by a credit card, debit card,
4 or other electronic method designated by the commissioner. State agencies and departments
5 shall not incur any additional fees for utilizing such payment methods, **unless authorized by the**
6 **commissioner of administration upon a finding that the payment of such fees would result**
7 **in a positive fiscal impact to the state.**

37.960. 1. This act shall be known and may be cited as the "**Million Dollar**
2 **Boondoggle Act of 2019**".

3 2. As used in this section, the term "executive agency" shall mean any
4 administrative governmental entity created by the Constitution or statutes of this state
5 under the executive branch, including any department, agency, board, bureau, council,
6 commission, committee, or board of regents or board of curators of any institution of
7 higher learning supported in whole or in part by state funds; any subdivision of an
8 executive agency; and any legally designated agent of such entity.

9 3. The office of administration shall submit to the general assembly and post on the
10 website of the office of administration a report on each capital improvement, building,
11 renovation, or construction project or any information technology project of any type that
12 is funded by an executive agency using only funds appropriated by the general assembly:

- 13 (1) That is more than one year behind schedule; or
14 (2) For which the amount spent on the project is at least one million dollars more
15 than the original cost estimate for the project.

16 4. To prepare the report required under subsection 3 of this section, the office of
17 administration shall send a request for information to executive agencies no later than
18 September first of each year and shall require a response no later than December thirty-
19 first. The office of administration shall submit their report to the general assembly and
20 post it on their website by January thirty-first.

21 5. Each report submitted and posted under subsection 3 of this section shall, for
22 each project included in the report, provide:

- 23 (1) A brief description of the project, including:
24 (a) The purpose of the project;
25 (b) Each location in which the project is carried out;

- 26 (c) The year in which the project was initiated;
- 27 (d) The state's share of the total cost of the project; and
- 28 (e) Each primary contractor and grant recipient of the project;
- 29 (2) An explanation of any changes to the original scope of the project, including the
- 30 addition or narrowing of the initial requirements of the project;
- 31 (3) The original expected date for completion of the project;
- 32 (4) The current expected date for completion of the project;
- 33 (5) The original cost estimate for the project, as adjusted to reflect increases in the
- 34 Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor
- 35 Statistics;
- 36 (6) The current cost estimate for the project, as adjusted to reflect increases in the
- 37 Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor
- 38 Statistics;
- 39 (7) An explanation for a delay in completion or increase in the original cost estimate
- 40 for the project; and
- 41 (8) The amount of and rationale, including terms and conditions to receive or be
- 42 denied, for any award, incentive fee, or other type of bonus, if any, awarded for the
- 43 project.

174.345. Nothing shall prohibit an institution under this chapter from entering into

2 a long-term concession with a private developer to construct, operate, maintain, and

3 finance the project in exchange for annual payments subject to abatement for

4 nonperformance. For the purposes of this section, a concession agreement shall be defined

5 as a license or lease between a private partner and an institution of higher education for

6 the development, operation, maintenance, or finance of a project.

536.015. There is established a publication to be known as the "Missouri Register",

2 which shall be published in a format and medium as prescribed by the secretary of state [~~and in~~

3 ~~writing upon request~~] no less frequently than monthly by the secretary of state.

536.025. 1. A rule may be made, amended or rescinded by a state agency without

2 following the provisions of section 536.021, only if the state agency:

- 3 (1) Finds that an immediate danger to the public health, safety or welfare requires
- 4 emergency action or the rule is necessary to preserve a compelling governmental interest that
- 5 requires an early effective date as permitted pursuant to this section;
- 6 (2) Follows procedures best calculated to assure fairness to all interested persons and
- 7 parties under the circumstances;
- 8 (3) Follows procedures which comply with the protections extended by the Missouri and
- 9 United States Constitutions; and

10 (4) Limits the scope of such rule to the circumstances creating an emergency and
11 requiring emergency action.

12 2. At the time of or prior to the adoption of such rule, the agency shall file with the
13 secretary of state and the joint committee on administrative rules the text of the rule **and the**
14 **fiscal note required by sections 536.200 and 536.205** together with the specific facts, reasons,
15 and findings which support the agency's conclusion that the agency has fully complied with the
16 requirements of subsection 1 of this section. If an agency finds that a rule is necessary to
17 preserve a compelling governmental interest that requires an early effective date, the agency shall
18 certify in writing the reasons therefor.

19 3. ~~Material filed with the secretary of state and the joint committee on administrative~~
20 ~~rules under the provisions of subsection 2 of this section shall be published in the Missouri~~
21 ~~Register by the secretary of state as soon as practicable after the filing thereof.] **After a filing by**~~
22 **an agency of materials under subsection 2 of this section, the secretary of state shall:**

23 (1) **As soon as practicable, publish such materials in the Missouri Register;**

24 (2) **Within three business days, email such materials to persons who have registered**
25 **to be notified of the agency's actions through the secretary of state's administrative rules**
26 **notification system; and**

27 (3) **Within three business days, publish such materials on the official website of the**
28 **secretary of state.**

29

30 Any rule adopted pursuant to this section shall be reviewed by the secretary of state to determine
31 compliance with the requirements for its publication and adoption established in this section, and
32 in the event that the secretary of state determines that such proposed material does not meet those
33 requirements, the secretary of state shall not publish the rule. The secretary of state shall inform
34 the agency of its determination, and offer the agency a chance to either withdraw the rule or to
35 have it published as a proposed rule.

36 4. The committee may file with the secretary of state any comments or recommendations
37 that the committee has concerning a proposed or final order of rulemaking. Such comments shall
38 be published in the Missouri Register.

39 5. The committee may refer comments or recommendations concerning such rule to the
40 appropriations and budget committee of the house of representatives and the appropriations
41 committee of the senate for further action.

42 6. Rules adopted under the provisions of this section shall be known as "emergency
43 rules" and shall, along with the findings and conclusions of the state agency in support of its
44 employment of emergency procedures, be judicially reviewable under section 536.050 or other
45 appropriate form of judicial review. The secretary of state and any employee thereof, acting in

46 the scope of employment, shall be immune from suit in actions regarding the adoption of rules
47 pursuant to this section.

48 7. A rule adopted under the provisions of this section shall clearly state the interval
49 during which it will be in effect. Emergency rules shall not be in effect for a period exceeding
50 one hundred eighty calendar days or thirty legislative days, whichever period is longer. For the
51 purposes of this section, a "legislative day" is each Monday, Tuesday, Wednesday and Thursday
52 beginning the first Wednesday after the first Monday in January and ending the first Friday after
53 the second Monday in May, regardless of whether the legislature meets.

54 8. A rule adopted under the provisions of this section shall not be renewable, nor shall
55 an agency adopt consecutive emergency rules that have substantially the same effect, although
56 a state agency may, at any time, adopt an identical rule under normal rulemaking procedures.

57 9. A rule adopted under the provisions of this section may be effective not less than ten
58 **business** days after the filing thereof in the office of the secretary of state, or at such later date
59 as may be specified in the rule, and may be terminated at any time by the state agency by filing
60 an order with the secretary of state fixing the date of such termination, which order shall be
61 published by the secretary of state in the Missouri Register as soon as practicable after the filing
62 thereof.

63 10. If it is found in a contested case by an administrative or judicial fact finder that an
64 agency rule should not have been adopted as an emergency rule as provided by subsection 1 of
65 this section, then the administrative or judicial fact finder shall award the nonstate party who
66 prevails, as defined in this section, its reasonable fees and expenses, as defined in this section.
67 This award shall constitute a reviewable order. If a state agency in a contested case grants the
68 relief sought by the party prior to a finding by an administrative or judicial fact finder that the
69 state agency's action was based on a statement of general applicability which should not have
70 been adopted as an emergency rule, but was in fact adopted as an emergency rule pursuant to this
71 section, then the affected party may bring an action in circuit court of Cole County for the
72 nonstate party's reasonable fees and expenses, as defined in this section.

73 11. For the purposes of this section, the following terms mean:

74 (1) "Prevails", obtains a favorable order, decision, judgment or dismissal in a civil action
75 or agency proceeding;

76 (2) "Reasonable fees and expenses" includes the reasonable expenses of expert
77 witnesses, the reasonable cost of any study, analysis, engineering report, test or project which is
78 found by the court or agency to be necessary for the preparation of the party's case, and
79 reasonable attorney or agent fees.

536.031. 1. There is established a publication to be known as the "Code of State
2 Regulations", which shall be published in a format and medium as prescribed ~~and in writing~~

3 ~~upon request]~~ by the secretary of state ~~[as soon as practicable after ninety days following January~~
4 ~~1, 1976, and may be republished]~~ from time to time ~~[thereafter]~~ as determined by the secretary
5 of state.

6 2. The code of state regulations shall contain the full text of all rules of state agencies
7 in force and effect upon the effective date of the first publication thereof, and effective
8 September 1, 1990, it shall be revised no less frequently than monthly thereafter so as to include
9 all rules of state agencies subsequently made, amended or rescinded. The code may also include
10 citations, references, or annotations, prepared by the state agency adopting the rule or by the
11 secretary of state, to any intraagency ruling, attorney general's opinion, determination, decisions,
12 order, or other action of the administrative hearing commission, or any determination, decision,
13 order, or other action of a court interpreting, applying, discussing, distinguishing, or otherwise
14 affecting any rule published in the code.

15 3. The code of state regulations shall be published in ~~[looseleaf form in one or more~~
16 ~~volumes upon request and]~~ a format and medium as prescribed by the secretary of state ~~[with an~~
17 ~~appropriate index, and revisions in the text and index may be made by the secretary of state as~~
18 ~~necessary and provided in written format upon request].~~

19 4. An agency may incorporate by reference rules, regulations, standards, and guidelines
20 of an agency of the United States or a nationally or state-recognized organization or association
21 without publishing the material in full. The reference in the agency rules shall fully identify the
22 incorporated material by publisher, address, and date in order to specify how a copy of the
23 material may be obtained, and shall state that the referenced rule, regulation, standard, or
24 guideline does not include any later amendments or additions, except that:

25 (1) Hospital licensure regulations promulgated under this chapter and chapter 197 may
26 incorporate by reference Medicare conditions of participation, as defined in section 197.005, and
27 later additions or amendments to such conditions of participation; and

28 (2) Hospital licensure regulations governing life safety code standards promulgated
29 under this chapter and chapter 197 to implement section 197.065 may incorporate, by reference,
30 later additions or amendments to such rules, regulations, standards, or guidelines as needed to
31 consistently apply current standards of safety and practice.

32 5. The agency adopting a rule, regulation, standard, or guideline under this section shall
33 maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of
34 the agency and shall make it available to the public for inspection and copying at no more than
35 the actual cost of reproduction. The secretary of state may omit from the code of state
36 regulations such material incorporated by reference in any rule the publication of which would
37 be unduly cumbersome or expensive.

38 6. The courts of this state shall take judicial notice, without proof, of the contents of the
39 code of state regulations.

 536.033. 1. Copies or subscription of the register or code shall be made available to the
2 public by the secretary of state upon request for a reasonable charge to be established by ~~[him]~~
3 **the secretary of state**, ~~[said charge]~~ not to exceed the actual cost of publishing and delivery.

4 2. All ~~[costs of printing and mailing the Missouri Register and the code of state~~
5 ~~regulations shall be paid by the office of the secretary of state from funds appropriated for this~~
6 ~~purpose and all]~~ fees collected from the sale ~~[thereof]~~ **of the Missouri Register or the code of**
7 **state regulations** by the secretary of state shall be deposited to general revenue.

8 3. The secretary of state may correct typographical or spelling errors in the publication
9 of any rule, notice of proposed rulemaking, or order of rulemaking.

 536.200. 1. Any state agency filing a notice of proposed rulemaking, as required by
2 section 536.021, **or an emergency rule, as required by section 536.025**, wherein the adoption,
3 amendment, or rescission of the rule would require or result in an expenditure of public funds
4 by or a reduction of public revenues for that agency or any other state agency of the state
5 government or any political subdivision thereof including counties, cities, towns, and villages,
6 and school, road, drainage, sewer, water, levee, or any other special purpose district which is
7 estimated to cost more than five hundred dollars in the aggregate to any such agency or political
8 subdivision, shall at the time of filing the notice with the secretary of state file a fiscal note
9 estimating the cost to each affected agency or to each class of the various political subdivisions
10 to be affected. The fiscal note shall contain a detailed estimated cost of compliance and shall be
11 supported with ~~[an affidavit]~~ **a declaration subject to the requirements of section 575.060** by
12 the director of the department to which the agency belongs that in the director's opinion the
13 estimate is reasonably accurate. If no fiscal note is filed, the director of the department to which
14 the agency belongs shall file ~~[an affidavit]~~ **a declaration subject to the requirements of section**
15 **575.060** which states that the proposed change will cost less than five hundred dollars in the
16 aggregate to all such agencies and political subdivisions.

17 2. **A fiscal note for an emergency rule filed under section 536.025 shall only reflect**
18 **the fiscal costs for the duration of the emergency rule.**

19 3. If at the end of the first full fiscal year after the implementation of the rule,
20 amendment, or rescission the cost to all affected entities has exceeded by ten percent or more the
21 estimated cost in the fiscal note or has exceeded five hundred dollars if ~~[an affidavit]~~ **a**
22 **declaration** has been filed stating the proposed change will cost less than five hundred dollars,
23 the original estimated cost together with the actual cost during the first fiscal year shall be
24 published by the adopting agency in the Missouri Register within ninety days after the close of
25 the fiscal year. Such costs shall be determined by the adopting agency. If the adopting agency

26 fails to publish such costs as required by this section, the rule, amendment, or rescission shall
27 be void and of no further force or effect.

28 ~~[3-]~~ 4. The estimated cost in the aggregate shall be published in the Missouri Register
29 contemporary with and adjacent to the notice of ~~[proposed]~~ rulemaking, and failure to do so shall
30 render any rule promulgated thereunder void and of no force or effect.

31 ~~[4-]~~ 5. Any challenge to a rule based on failure to meet the requirements of this section
32 shall be commenced within five years after the effective date of the rule.

33 ~~[5-]~~ 6. In the event that any rule published prior to June 3, 1994, shall have failed to
34 provide a fiscal note as required by this section, such agency shall publish the required fiscal note
35 cross-referenced to the applicable rule prior to August 28, 1995, and in that event the rule shall
36 not be void. Any such rule shall be deemed to have met the requirements of this section until
37 that date.

536.205. 1. Any state agency filing a notice of proposed rulemaking, as required by
2 section 536.021, **or an emergency rule, as required by section 536.025**, whereby the adoption,
3 amendment, or rescission of the rule would require an expenditure of money by or a reduction
4 in income for any person, firm, corporation, association, partnership, proprietorship or business
5 entity of any kind or character which is estimated to cost more than five hundred dollars in the
6 aggregate, shall at the time of filing the notice with the secretary of state file a fiscal note
7 containing the following information and estimates of cost:

8 (1) An estimate of the number of persons, firms, corporations, associations, partnerships,
9 proprietorships or business entities of any kind or character by class which would likely be
10 affected by the adoption of the proposed rule, amendment or rescission of a rule;

11 (2) A classification by types of the business entities in such manner as to give reasonable
12 notice of the number and kind of businesses which would likely be affected;

13 (3) An estimate in the aggregate as to the cost of compliance with the rule, amendment
14 or rescission of a rule by the affected persons, firms, corporations, associations, partnerships,
15 proprietorships or business entities of any kind or character.

16 2. **A fiscal note for an emergency rule filed under section 536.025 shall only reflect**
17 **the fiscal costs for the duration of the emergency rule.**

18 3. The fiscal note shall be published in the Missouri Register contemporary with and
19 adjacent to the notice of ~~[proposed]~~ rulemaking, and failure to do so shall render any rule
20 promulgated thereunder void and of no force and effect.

21 ~~[3-]~~ 4. Any challenge to a rule based on failure to meet the requirements of this section
22 shall be commenced no later than five years after the effective date of the rule.

23 ~~[4-]~~ 5. In the event that any rule published prior to June 3, 1994, shall have failed to
24 provide a fiscal note as required by this section, such agency shall publish the required fiscal note

25 prior to August 28, 1995, and in that event the rule shall not be void. Any such rule shall be
26 deemed to have met the requirements of this section until that date.

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