

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1930H.04C
 Bill No.: HCS for HB 863
 Subject: Bonds - General Obligation and Revenue; Political Subdivisions; Environmental Protection; Taxation and Revenue - Sales and Use; Tax Incentives; Auditor, State
 Type: Original
 Date: February 20, 2023

Bill Summary: This proposal establishes requirements for municipal bonds receiving the green bond rating in this state.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	\$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)

*The interest on or income from green bonds would be exempt from Missouri income tax. Oversight assumes the potential impact to the state would not reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints of less than 24 hours, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. Oversight has presented this fiscal note on the best current information that we have or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

§1.1200 – Environmental, Social Justice, or Governance Scores or Metrics

In response to a similar proposal from this year (SB 50), officials from the **Office of Administration - Facilities Management, Design and Construction (OA-FMDC)** stated this bill could have an unknown fiscal impact on the State’s contract costs and ability to obtain necessary goods and services, in addition to the costs to OA- Purchasing and OA-FMDC to implement a process to ensure that contractors are complying with this requirement. Many corporations and businesses that the State does business with likely consider at least one factor identified in the definition of “environmental, social, and governance score” when hiring subcontractors, such as the subcontractor’s use of raw materials, environmental policies, wages and/or working hours. Prohibiting firms that consider such factors from competing for contracts with the State of Missouri will likely reduce the number of viable vendors competing for public contracts. A reduced competition pool will probably lead to increased prices from vendors, and may also lead to inferior quality of performance or complete inability to obtain certain products or services.

OA-FMDC stated additional fiscal impact could also result if OA-FMDC’s assumption is incorrect that compliance with this bill can be achieved with a self-certification/attestation form. If this bill were interpreted to require OA-FMDC to take steps to investigate contractor’s compliance with this requirement, the impact would be higher.

Oversight assumes an increase in cost due to a potential reduction in vendors is speculative and will not reflect a fiscal impact as a result

OA-FMDC assumed that it would ensure compliance with this bill by requiring contractors to complete a self-certification/attestation form. This would require time by OA-FMDC staff to create the form and amend bid documents and templates to include this new requirement. OA-FMDC assumes this would take approximately 100 hours of staff time at \$40.00 per hour. OA-FMDC has approximately 275 existing contracts that would need to be amended to include this requirement. OA assumes that it would take at least one hour per contract to complete this task. This bill would also cause an increase in the number of contracts that would need to be rebid if existing vendors refuse to comply. Therefore, OA-FMDC estimates the total fiscal impact of this bill to be \$40,000. At this time, it is believed that the additional staff time and resources can be absorbed by OA-FMDC. However, if there are multiple pieces of legislation passed where OA-

FMDC has responded that the costs can be absorbed, OA-FMDC would need to reevaluate to see if additional staff and associated expenses would then be required.

OA-FMDC assume the fiscal impact of this proposal can be absorbed. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for OA-FMDC.

Officials from the **Department of Corrections (DOC)** state this proposal creates new provisions prohibiting discrimination against businesses based on environmental, social, and governance scores.

This legislation appears to limit the DOC's ability to score bidders based on their composite materials and institutional security, and could increase the possibility for litigation against the department if a bidder does not agree with the scoring process.

DOC states that the Missouri Vocational Enterprises uses some raw materials containing various levels of recycled content for some product lines. Since the recycled content may vary from one product supplier to another, this could potentially create a negative impact if the evaluation was considered "preferential treatment based on an environmental, social, and governance score."

It is unknown if, and when, a business would disagree with the procurement process. Therefore, this legislation could cause an unknown impact to the department.

Oversight assumes because the potential for litigation is speculative, the DOC or any governmental agency that lets bids, will not incur significant costs related to this proposal.

In response to similar legislation from this year, HB 770, officials from the **Department of Economic Development**, the **Department of Mental Health**, the **Department of Public Safety (Capitol Police, Alcohol & Tobacco Control, Fire Safety, Gaming Commission, Missouri National Guard and Veterans Commission)**, the **Joint Committee on Public Employee Retirement**, the **Missouri Department of Conservation**, the **Missouri Ethics Commission**, the **Missouri House of Representatives**, the **Office of Administration (Administrative Hearing Commission)**, the **Office of the State Courts Administrator** and the **Office of the State Auditor** each assumed the proposal will have no fiscal impact on their respective organizations.

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.

In response to a similar proposal from this year (SB 50), officials from the City of **Springfield** assumed the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note.

In response to similar legislation from this year, HB 770, officials from the **Office of the Secretary of State (SOS)** noted 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 \$5,000. 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 its 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.

§§105.688 & 105.692 – Proxy Voting and Fiduciary Investments

In response to similar legislation from this year, HB 769, officials from the **Joint Committee on Public Employee Retirement (JCPER)** stated this proposal has no direct fiscal impact to the JCPER. The JCPER's review of this legislation indicates it will not affect retirement plan benefits as defined in Section 105.660(9).

In response to similar legislation from this year, HB 769, officials from the **Local Government Employees Retirement System, Rock Community Fire Protection District Retirement Plan** and the **County Employees' Retirement Fund** each assumed the proposal will have no fiscal impact on their respective organizations.

In response to similar legislation from this year, HB 769, officials from **MoDOT & Patrol Employees' Retirement System** stated this proposal, if enacted, would modify provisions related to proxy voting and fiduciary investment duties for public retirement plans. Specifically, the proposed provision addressing the approach to environmental, social, and governance (ESG) issues would exclude those issues from consideration if consideration would override the investment fiduciary's duty as otherwise defined in section 105.688.

The second proposed amendment to section 105.688 states that the investment fiduciary shall not be subject to divestment legislation.

Proposed section 105.692 defines how proxy voting should be handled, in general and specifically where (ESG) issues are a factor. In this case, voting shares for the purpose to further ESG is prohibited.

The changes proposed in this bill would have the effect of managing matters that are currently politically and socially important without the negative impact of more restrictive legislation on public retirement system investments.

In response to similar legislation from this year, HB 769, officials from **Public Schools and Education Employee Retirement Systems** stated this legislation modifies provisions relating to duties of fiduciaries for public employee retirement systems. Currently, an investment fiduciary has to discharge his or her duties relating to the investment, reinvestment and management of the assets of the system for the participants, based upon certain specified standards. This legislation includes additional standards and provides that the investment fiduciary shall not consider environmental, social, or governance characteristics in a manner that overrides his or her fiduciary duties. Further, the investment fiduciary shall not be subject to legislative, regulatory, or other mandates to invest with environmentally, socially, or other noneconomically motivated influence unless they are consistent with the fiduciary's responsibilities, or divest from any direct holdings as mentioned in the bill.

The legislation also provides for voting of all shares of common stock solely to further the economic interest of the plan participants and prohibits voting to further noneconomic environmental, social, political, ideological or other goals. The bill also specifies the methods for voting by proxy.

As currently drafted this bill has no substantial fiscal or operational impact on PSRS or PEERS of Missouri.

In response to similar legislation from this year, HB 769, officials from the **St. Louis Public Schools Retirement System** noted the following impacts:

- The System can't set up a separately managed account (SMA) that would then incorporate environmental, social or governance (ESG) as a stand alone consideration, engage with companies on these issues, or work with managers that market their commitment to "ESG", "sustainable", etc.
- The System must be actively engaged in overseeing and monitoring proxy voting for SMAs.
- Can't have managers vote unless they agree to guidelines that follow the bill.

Officials from **Kansas City, Kansas City Employees' Retirement System, Kansas City Firefighter's Pension System** and the **Kansas City Supplemental Retirement Plan** each assume this proposal could have a positive fiscal impact of an indeterminate amount unless the thresholds weren't met every year which could cause a negative fiscal impact.

Officials from the **Kansas City Public School Retirement System (KCPSRS)** state KCPSRS asset allocation invests with passive and active money managers. The managers selected by the Retirement Board may very well be index managers who, at a very low cost, will replicate equity holdings of an appropriate index fund. Neither the investment manager nor the Retirement Board can dictate which investments are included in the index fund. The new provisions of section 105.688 RSMo, contained in HB 863 could prevent the Retirement Board from investing in funds that could add value to the plans.

Cost increases is undetermined. The provisions of HB 863 may need to hire additional staff the cost of which cannot be determined at this time. Investment manager's fees may increase as a result of the new provisions in 105.688 RSMo.

Oversight assumes this proposal may limit investment decisions to already established fiduciary duties. Based on the majority of responses, Oversight assumes this proposal would not have a significant fiscal impact on public employee retirement plans.

§108.371 – Municipal Green Bonds

Officials from the **Office of Administration - Budget and Planning (B&P)** assume this proposal would allow municipalities to issue bonds for certain "green" projects. This proposal would also exempt all interest and income earned from the green bonds from Missouri income tax. B&P notes that per §143.121.2(2) the interest from municipal bonds are already exempt from Missouri income tax. Therefore, if this proposal leads to the issuance of additional municipal bonds than what would have otherwise been issued under general obligation bonds, then this proposal could result in an unknown reduction to GR. Therefore, B&P estimates that this proposal may reduce TSR and GR by \$0 to (Unknown).

B&P notes that it is unclear who would rate, certify, or validate a municipal bond as "green" under this proposal. Per §108.240, the state auditor is required to certify general obligation bonds, but not for "green" status.

B&P further notes that per subsection 4, if a review of a municipal bond determines that less than 85% of the revenues were used on a qualifying green project, the bonds would lose their tax-exempt status under this proposal. However, as noted above §143.121.2(2) already exempts municipal bonds from Missouri income taxes. Therefore, B&P assumes that even if the bonds lose their "green" status, the interest would remain exempt from taxation under §143.121.

Officials from the **Department of Revenue (DOR)** assume this proposal would allow for the issuance of municipal green bonds to support certain environmentally-friendly activities. The interest on or income from such bonds would be exempt from Missouri income tax (§108.371.3) although apparently not exempt from some or all of Missouri's financial institution taxes.

This proposal refers to the municipal green bonds as being rated, certified, validated or reviewed but it is unclear who is to do this rating. If DOR is expected to do this, it is outside their area of expertise and they would need to hire additional FTE to handle this. The FTE needed is unknown at this time.

This provision is being placed in the statutes regarding general obligation bonds. However it is not clear if this will be a new type of general obligation bond. If this proposal allows municipalities to issue these green bonds in lieu of their general obligation bond, then no additional impact may be expected.

However, if this proposal encourages the creation of additional bonds, and these bonds are exempt from income tax, then this could result in an Unknown negative impact on general revenue. This proposal could result in a \$0 to Unknown negative impact to general revenue.

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by the B&P and DOR.

In response to a previous version, officials from the **Department of Economic Development**, the **Office of the State Auditor**, the **Missouri Department of Conservation**, the **Office of the State Treasurer**, the **City of O'Fallon** and the **City of Springfield** each assumed the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

§§409.115 & 409.117 – Investment Disclosures

In response to similar legislation from this year, HB 824, officials from the **Office of the Secretary of State** and **Office of the State Courts Administrator** both assumed the proposal will have no fiscal impact on their respective organizations.

Bill as a Whole

Officials from the **Attorney General's Office**, the **Department of Commerce and Insurance**, the **Department of Labor and Industrial Relations**, the **Office of the State Public Defender**, the **County Employees Retirement Fund**, the **Department of and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Natural Resources**, the **Department of Public Safety (Office of the Director, Missouri Highway Patrol, State Emergency Management Agency)**, the **Department of Social Services**, the **Office of the Governor**, the **Missouri Department of Agriculture**, the **Missouri Department of Transportation**, the **Sheriff's Retirement System**, the **Joint Committee on Administrative Rules**, the **Legislative Research**, the **Oversight Division**, the **Missouri Senate**, the **Missouri Lottery**, the **Missouri Consolidated Health Care Plan**, the **Missouri Office of Prosecution Services**, the **Missouri State Employee's Retirement System** and the **State Tax Commission** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Except for what is already provided in §108.371, officials from the DOR assume the rest of the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for those sections.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did

not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Loss – B&P/DOR – of revenues from interest and income earned on green bonds being exempt from MO income taxes §108.371</u>	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	\$0	\$0	\$0

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

§108.371 – Municipal Green Bonds

This legislation governs green bonds which are a type of bond instrument where the proceeds are exclusively used to finance or re-finance eligible green projects.

An "eligible green project" is a project or activity that supports a positive environment impact that includes assets, investments and other related expenditures that relate to categories such as renewable energy, energy efficiency, pollution prevention and control, environmentally sustainable management of living natural resources and land use, clean transportation, terrestrial and aquatic biodiversity, climate change adaptation, circular economy adapted products, sustainable water and wastewater management and green buildings, all as defined in the bill.

To be rated as a green bond in Missouri, at least 85% of the bond proceeds should be used for eligible green projects and interest on income from such bonds is exempt from income tax.

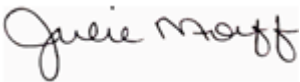
This bill provides that a municipality that issues a municipal green bond shall establish a green bond holder protection fund separate from the municipality's debt service reserve fund or an equivalent fund.

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
 Budget and Planning
Department of Revenue
Department of Economic Development
Office of the State Auditor
Department of Natural Resources
Missouri Department of Conservation
Missouri Department of Transportation
Department of Commerce and Insurance
Office of the State Treasurer
City of O'Fallon
City of Springfield
Department of Elementary and Secondary Education
Department of Higher Education and Workforce Development
Department of Health and Senior Services
Department of Mental Health
Department of Corrections
Department of Labor and Industrial Relations
Department of Public Safety
 Office of the Director
 Division of Alcohol and Tobacco Control
 Capitol Police
 Fire Safety
 Missouri Gaming Commission
 Missouri Highway Patrol
 Missouri National Guard
 State Emergency Management Agency
 Missouri Veterans Commission
Department of Social Services
Joint Committee on Public Employee Retirement
Joint Committee on Administrative Rules
Missouri Lottery Commission
Legislative Research
Oversight Division
Local Government Employees Retirement System

Missouri Consolidated Health Care Plan
Missouri Department of Agriculture
Missouri Ethics Commission
Missouri House of Representatives
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Missouri Office of Prosecution Services
Office of Administration
 Facilities Management, Design and Construction
Office of the State Courts Administrator
Missouri Senate
Office of the Secretary of State
Office of the State Public Defender
Public Schools and Education Employee Retirement Systems
State Tax Commission
Kansas City
Joint Committee on Public Employee Retirement
Public Schools and Education Employee Retirement Systems
Kansas City Employees' Retirement System
Kansas City Firefighter's Pension System
Kansas City Supplemental Retirement Plan
Kansas City Public School Retirement System
Local Government Employees Retirement System
Rock Community Fire Protection District Retirement Plan
County Employees' Retirement Fund
Office of the Governor
Sheriff's Retirement System
County Employees Retirement Fund



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