

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1356-01  
Bill No.: HB 383  
Subject: Administration, Office of; Business and Commerce; Contracts and Contractors;  
 State Departments  
Type: Original  
Date: March 4, 2003

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(\$49,010) to Could Exceed \$50,000	(\$49,010) to Could Exceed \$50,000	(\$49,010) to Could Exceed \$50,000
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$49,010) to Could Exceed \$50,000</b>	<b>(\$49,010) to Could Exceed \$50,000</b>	<b>(\$49,010) to Could Exceed \$50,000</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Various	\$0 or Could Exceed \$50,000	\$0 or Could Exceed \$50,000	\$0 or Could Exceed \$50,000
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0 or Could Exceed \$50,000</b>	<b>\$0 or Could Exceed \$50,000</b>	<b>\$0 or Could Exceed \$50,000</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 10 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
Various	\$0 or Could Exceed \$50,000	\$0 or Could Exceed \$50,000	\$0 or Could Exceed \$50,000
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0 or Could Exceed \$50,000</b>	<b>\$0 or Could Exceed \$50,000</b>	<b>\$0 or Could Exceed \$50,000</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

ASSUMPTION

Officials from the **Department of Corrections, Missouri House of Representatives** and the **Missouri Lottery Commission** did not respond to our fiscal impact request.

Officials from the **Office of the Governor, Missouri Senate, Office of Administration – Divisions of Design and Construction and Facilities Management, Department of Agriculture, Department of Economic Development, Department of Elementary and Secondary Education, Department of Public Safety – Divisions of Highway Safety, Capitol Police, State Emergency Management Agency and Liquor Control, Department of Revenue, Office of the State Public Defender, Missouri Tax Commission, Missouri Gaming Commission, Missouri Ethics Commission and Missouri Consolidation Health Care Plan** assume the proposal would have no fiscal impact on their agencies.

Officials from the **State Treasurer’s Office** assume the proposal would have no fiscal impact on their office because they have no services costing over \$500,000.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

ASSUMPTION (continued)

Officials from the **Department of Natural Resources** state their department currently performs business analysis at various levels and assumes the required analysis would be absorbed by existing resources, therefore there would not be a direct fiscal impact.

Officials from the **Department of Health and Senior Services (DHSS)** expect the proposal would not significantly impact its operations. DOH officials note if the proposal were to substantially impact its programs, they would request funding through the legislative process.

Officials from the **Department of Public Safety – Missouri Veterans Commission** assume the proposal would have a negative unknown impact on their agency.

Officials from the **Office of the Lieutenant Governor** assume the cost of their office would increase if services were privatized.

Officials from the **Department of Social Services – Various Divisions** assume the proposal would either have no fiscal impact or an unknown administrative impact which could involve additional costs and duties.

Officials from the **Department of Conservation (MDC)** assume the proposal could have significant administrative and fiscal impact on their agency because of the requirements placed on certain service contracts. MDC states the amount of fiscal impact is unknown.

Officials from the **Department of Mental Health (DMH)** note their agency does not currently have any privatization contracts nor expects to enter into such a contract in the future. DMH also notes the proposal would not alter existing personnel practices during the privatization process. Therefore, DMH anticipates no fiscal impact as a result of this proposal.

Officials from the **Department of Insurance (INS)** state their department currently contracts out the examinations required for producer licensure. INS notes the contract is bid through the Office of Administration (OA) and the contractor collects the examination fees and the department does not provide any funds. INS states this proposal would have no fiscal impact on their agency but would make changes in the OA bid process for this contract. INS notes the requirements of this proposal would increase paperwork and reporting for any agency and contractor involved in privatization of services.

ASSUMPTION (continued)

Officials from the **Secretary of State's Office (SOS)** state the administrative and fiscal impact on their agency would be significant but unknown. SOS notes the proposal provides no guidance on how services must be "grouped" in order to reach the \$500,000 threshold. SOS assumes the proposal's intent is to group agency services to favor privatization where possible, whereby many services provided by the Secretary of State could meet the threshold. SOS assumes the type of detailed and comprehensive analysis and written reports required by the legislation means their agency would have to expend significant resources to meet the mandates of this proposal. SOS further assumes such analysis and writing would take significant participation from agency personnel, including division directors, fiscal staff, and human resources staff, and most likely require hiring additional personnel. SOS assumes additional costs would be expected to initiate and comply with the bidding process should privatization be required. SOS notes since such analysis must be performed before soliciting bids, it is too speculative to say whether these initial costs might be recouped in savings from privatization in future years.

**Oversight** assumes duties related to agencies analyzing the costs and benefits of privatizing their services for any service valued at \$500,000 can be absorbed by existing personnel.

Officials from the **Department of Higher Education (DHE)** state virtually all services offered by their department may qualify. Based on this assumption, DHE assumes the proposal would require 1.0 FTE (Research Associate with an annual salary of \$35,000) to perform analyses of existing programs, coordinate bidding procedures and write comprehensive written estimates as described. DHE calculates the cost to General Revenue for personal services, fringe and expense and equipment to be approximately \$52,000 annually.

**Oversight** assumes duties related to agencies analyzing the costs and benefits of privatizing their services for any service valued at \$500,000 can be absorbed by existing personnel.

Officials from the **Department of Labor and Industrial Relations** state the conditions of the proposal appear to conflict with the methods of administration requirements of Section 303(a)(1) of the Social Security Act. The United States Department of Labor reviewed the proposal and determined the proposal creates an issue with the requirements of federal Unemployment Compensation law because it would privatize positions that are required to be merit staffed. DOL notes the result of this nonconformity could cost approximately \$40 million annually in federal funding for the administration of the unemployment compensation program and as much as \$997 million annually in Federal Unemployment Tax Act (FUTA) credits by contributing Missouri employers.

ASSUMPTION (continued)

**Oversight** assumes the proposal would be implemented in a manner that would conform with the administration requirements of the Social Security Act. Therefore, **Oversight** is not showing the fiscal impact reported by DOL.

Officials from the **Office of the State Courts Administrator (OSCA)** state they have no basis for estimating any increase in civil litigation as a result of the proposal, but there is a potential, and the volume is unknown until the proposal has been in place for some time. Any significant increase in the volume of civil litigation would have a corresponding impact on the state and local budget of the judiciary. OSCA notes the judiciary has always strategically outsourced, using private providers wherever appropriate. However, we do not know if any other areas will be appropriate until we do the analysis as each situation arises; therefore, we cannot predict any other impacts in advance.

**Oversight** assumes OSCA would request additional funds through the appropriations process if/when the need arises.

Officials from the **Department of Transportation (MoDOT)** state the fiscal impact of the proposal cannot be estimated due to the uncertainty involved in determining the amount of staff time required to perform the following: (1) cost/benefit analysis of each service provided by this agency valued at \$500,000 or more; (2) preparation of written statements regarding the quantity and quality of services; (3) cost justification statements (using department employees) prior to soliciting bids; (4) and soliciting bids for the services to be privatized.

MoDOT notes the proposal provides that the "projected cost savings of privatization contracts shall exceed ten percent " before a contract can be awarded. MoDOT notes in addition to these savings, there may also be savings in salaries if department employees, who currently perform the services that are privatized, are terminated. MoDOT states it is not possible to estimate the amount of savings which may or may not offset the total costs.

**Oversight** assumes duties related to agencies analyzing the costs and benefits of privatizing their services for any service valued at \$500,000 can be absorbed by existing personnel.

Officials from the **State Auditor's Office (SAO)** assume the review of privatization contracts would be a full time position for at least one Senior Auditor I (with an annual salary of \$37,723). SAO calculates the cost to General Revenue for personal services and fringe benefits to be approximately \$56,000 annually.

ASSUMPTION (continued)

**Oversight** assumes the proposal would result in additional duties for the SAO, however not to the degree that would require one (1) additional FTE. **Oversight** assumes the SAO could implement the proposal with existing resources and request additional funds through the appropriations process if/when the need arises.

Officials from the **Office of Administration – Division of Purchasing and Materials Management (DPMM)** assume the proposed legislation would apply to many professional and general services contracts awarded by DPMM. DPMM assumes that would need two (2) additional Buyer IVs to ensure that all additional requirements of the proposal are met. DPMM notes the new Buyers would either prepare the cost estimate of providing the service by public employees or review the cost estimate prepared by state agencies. After bids have been submitted, the Buyers would prepare a comprehensive analysis of the contract costs. DPMM calculates the cost to General Revenue for personal services, fringe benefits and expense and equipment to be approximately \$140,000 annually.

**Oversight** notes in response to a similar proposal from last year's session the DPMM requested one (1) additional Buyer III to implement the proposal. **Oversight** notes last year's proposal provided a lower threshold (\$25,000) for consideration of privatization which would require the DPMM to review even more bids than the current proposal. Accordingly, **Oversight** is assuming DPMM could implement the proposal with one (1) additional Buyer III.

**Oversight** assumes if state agencies privatize services valued at \$500,000 or more it would be a result of saving 10% of the cost of services performed by state employees. **Oversight** assumes one privatization of services valued at \$500,000 per year would generate a savings of \$50,000. **Oversight** is reflecting a savings to General Revenue, Various State Funds and Federal Funds, ranged from zero to in excess of \$50,000 annually.

FISCAL IMPACT - State Government

FY 2004  
 (10 Mo.)

FY 2005

FY 2006

**GENERAL REVENUE**

Savings – Various State Agencies

	<u>\$0 or Could</u>	<u>\$0 or Could</u>	<u>\$0 or Could</u>
Privatization of Services	<u>Exceed \$50,000</u>	<u>Exceed \$50,000</u>	<u>Exceed \$50,000</u>

Costs – DPMM

Personal Service (1 FTE)	(\$32,021)	(\$39,386)	(\$40,370)
Fringe Benefits	(\$12,959)	(\$15,940)	(\$16,338)
Expense and Equipment	(\$4,030)	(\$438)	(\$318)
Total <u>Costs</u>	<u>(\$49,010)</u>	<u>(\$55,764)</u>	<u>(\$57,026)</u>

**ESTIMATED NET EFFECT ON  
 GENERAL REVENUE**

<u>(\$49,010) to</u>	<u>(\$49,010) to</u>	<u>(\$49,010) to</u>
<u>Could Exceed</u>	<u>Could Exceed</u>	<u>Could Exceed</u>
<u>\$50,000</u>	<u>\$50,000</u>	<u>\$50,000</u>

**VARIOUS OTHER STATE FUNDS**

Savings – Various State Agencies

	<u>\$0 or Could</u>	<u>\$0 or Could</u>	<u>\$0 or Could</u>
Privatization of Services	<u>Exceed \$50,000</u>	<u>Exceed \$50,000</u>	<u>Exceed \$50,000</u>

**FEDERAL FUNDS**

Savings – Various State Agencies

	<u>\$0 or Could</u>	<u>\$0 or Could</u>	<u>\$0 or Could</u>
Privatization of Services	<u>Exceed \$50,000</u>	<u>Exceed \$50,000</u>	<u>Exceed \$50,000</u>

FISCAL IMPACT - Local Government

FY 2004  
(10 Mo.)

FY 2005

FY 2006

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small businesses may find increased opportunity to overtake services currently being provided by state employees.

DESCRIPTION

This proposal creates the Public Service Accountability Act, which requires state agencies to analyze costs and benefits of privatizing their services for any service valued at \$500,000 or more, other than legal or management consulting services. If the agency determines that it is cost effective to privatize a service, it must prepare a statement of services that includes standards of quality and quantity and an estimate of the costs of regular agency employees providing the service, which will be used to solicit sealed bids.

A contract can only be granted when the cost differential is more than a 10% savings, and contracts cannot exceed five years. Contractors must offer positions to agency employees whose jobs are eliminated as a result of the contract when those employees satisfy the private contractor's hiring criteria. The agency, contractor, and any subcontractors must abide by federal Freedom of Information Act. Any action taken by the contractor or subcontractor to avoid complying with the Freedom of Information Act shall subject the parties to investigations by the Attorney General of Missouri who may seek damages on behalf of the state.

Contracts must be sent to the State Auditor for review and returned within 30 days. The Auditor's objection will preclude implementation of the contract. Proposed contractors must supply information on their qualifications and disclose their state-level political contributions for the past four years and their record of legal complaints and workplace violations. No state funds can be used to oppose or promote union activity among the contractor's employees.

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

KLR:LR:OD (12/02)

SOURCES OF INFORMATION

Office of the Governor  
Missouri Senate  
Office of Administration  
Department of Agriculture  
Department of Economic Development  
Department of Elementary and Secondary Education  
Department of Public Safety  
Department of Revenue  
Office of the State Public Defender  
Missouri Tax Commission  
Missouri Gaming Commission  
Missouri Ethics Commission  
Missouri Consolidation Health Care Plan  
State Treasurer's Office  
Office of the Attorney General  
Department of Natural Resources  
Department of Health and Senior Services  
Office of the Lieutenant Governor  
Department of Social Services  
Department of Conservation  
Department of Mental Health  
Department of Insurance  
Secretary of State's Office  
Department of Higher Education  
Department of Labor and Industrial Relations  
Office of the State Courts Administrator  
Department of Transportation  
State Auditor's Office

**NOT RESPONDING**

**Department of Corrections**  
**Missouri House of Representatives**  
**Missouri Lottery Commission**

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A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large initial 'M' and a long, sweeping tail.

MICKEY WILSON, CPA  
DIRECTOR  
MARCH 4, 2003