

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5961-01
Bill No.: HB 2053
Subject: Business and Commerce; Construction and Building Codes; Cities, Towns and Villages; Counties
Type: Original
Date: March 25, 2014

Bill Summary: This proposal establishes the Partnership for Public Facilities and Infrastructure Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(\$1,330,556)	(\$1,317,409)	(\$1,330,556)
Total Estimated Net Effect on General Revenue Fund	(\$1,330,556)	(\$1,317,409)	(\$1,330,556)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
State Facilities Maintenance & Operations	(\$2,103,765)	(\$2,341,897)	(\$2,365,481)
University Funds	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown greater than \$2,103,765)	(Unknown greater than \$2,341,897)	(Unknown greater than \$2,365,481)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	19 FTE	19 FTE	19 FTE
State Facilities Maintenance & Operations Fund	25 FTE	25 FTE	25 FTE
Total Estimated Net Effect on FTE	44 FTE	44 FTE	44 FTE

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration's Facilities Maintenance, Design and Construction (FMDC)** assume the impact will vary greatly depending on the number of projects proposed by the private sector. Likely costs of this legislation could be considerable. FMDC will require additional licensed architects and engineers, lawyers, accountants, financial experts and budget analysts and/or contract costs to cover the team of specialists, which are dependent upon the number and complexity of projects ultimately funded. Additional specialists would be required to determine the cost/benefits of a particular project. There are also requirements for posting on the web and advertising, which takes additional staff time.

Partnership statutes are a mix of public and private funding and FMDC would expend a lot of time analyzing the different proposals. A private consulting firm may need to be retained per project to help state officials make an award determination. If a project is approved and funded, additional oversight will be required for monitoring construction, leases and revenue.

FMDC is unable to determine a true overall cost impact. Additional staffing would be requested and considered through the appropriation process in the General Assembly.

Given FMDC's current staffing and workload and due to the complexity of a "Partnership for Public Facilities and Infrastructure"; FMDC would be required to pool new resources into a unit to achieve a common goal to watch out for state's assets. Based on FMDC's current division structure FMDC would need additional FTE based in its Project Management Unit, CI Planning Unit and Contracts Unit.

FMDC would need additional space of 25 - FTE times 300 square foot per FTE time \$10.00 square foot = \$75,000.

Officials at the **Office of Administration's Division of Purchasing and Materials Management (DPMM)** assume the additional posting time required would delay the award process. DPMM's advertising budget would minimally double. Due to the complexity of conducting the negotiation process, DPMM would need to hire the following additional staff: 6 Buyer IV, 6 Buyer III, and 1 AOSA position (§§34.500.c and 343.500.d). Due to the complexity of conducting the review and approval process, DPMM would need to hire the following additional staff: 2 Buyer IV, 2 Buyer III, and 1AOSA position (§§34.503-34.509).

ASSUMPTION (continued)

Officials at the **Office of the State Auditor (SAO)** assume an estimate of 1 FTE based on the requirement that the State Auditor's Office perform a periodic review of the comprehensive agreements made under the Partnership for Public Facilities and Infrastructure Act as well as maintain electronic agreements in an online database (§34.551). The number of comprehensive agreements submitted to the SAO could impact the number of FTE needed, as this would increase the duties required, at this time the State Auditor's Office will require at least 1 FTE for these duties.

Officials at the **Department of Agriculture, the Department of Corrections, the Department of Economic Development, the Department of Higher Education, the Department of Insurance, Financial Institutions and Professional Registration, the Department of Labor and Industrial Relations, the Department of Public Safety's Capitol Police, the Department of Public Safety's Division of Alcohol and Tobacco Control, the Department of Revenue, the Joint Committee on Legislative Research, the Missouri Department of Transportation, the Missouri Gaming Commission, the Missouri Highway Patrol, the Missouri National Guard, the Missouri Senate, the Missouri State University, the Missouri Western State University, the Office of Administration's Information Technology Services Division, the Office of the Governor, the Office of Prosecution Services, the Office of the State Public Defender, the Platte County Board of Election Commission, the Springfield Police Department, the State Emergency Management Agency, St. Louis County, the St. Louis County Board of Election Commission, the University of Central Missouri and the University of Missouri** each assume there is no fiscal impact to their respective organizations from this proposal.

Officials at the **Department of Health and Senior Services, Department of Social Services** and the **Missouri Veterans Commission** defer to the Office of Administration for fiscal impact.

Officials at the **Department of Natural Resources** assume it is unknown how many proposals may be submitted by private entities. Not knowing the number of qualifying projects the department may have that fall under the provisions of the bill, the fiscal impact to the department is unknown.

Officials at the **Department of Mental Health (DMH)** assume the processes outlined by the "Partnership for Public Facilities and Infrastructure Advisory Commission" would change the current purchasing process. DMH assumes the new purchasing guidelines could create fiscal impact, but the cost could not be determined based on the proposed language. It would be based on the changes proposed by the "Commission" which are unknown at this time. DMH assumes any changes made by this new "Commission" will not result in additional costs and therefore assumes no resulting fiscal impact.

ASSUMPTION (continued)

Officials at the **Department of Elementary and Secondary Education (DESE)** assume there does not appear to be an increased cost to the state in regards to the foundation formula. The potential for state and local savings is assumed; however, any potential savings is unknown due to the unique needs of communities and multi-jurisdiction public entities.

Officials at the **Office of Attorney General** assume the proposal prohibits certain entities from accepting certain benefits, and assesses penalties for doing so. The AGO is charged with enforcing these provisions in new §34.563 of the proposal. The AGO assumes costs associated with this enforcement could be absorbed with existing resources, but would seek additional appropriations if significant enforcement efforts were required.

Officials at the **Department of Conservation** assume an unknown impact estimated to be greater than \$100,000 annually.

Officials at the **Linn State Technical College** assume minimal positive impact.

Officials at the **City of Kansas City** assume there may be administrative costs and staff time connected with the review of the proposal, if those cannot be recouped in fees. The exact amount cannot be ascertained at this time.

Officials at the **Northwest Missouri State University** assume there may be an impact but it is unknown at this time.

Officials at the **Central County Fire and Rescue** assume an unknown negative impact that can not be quantified at this time.

Oversight assumes that this proposal requires a penalty be assessed for violations of §34.563. Oversight assumes that due to the severity of the penalty officials will comply with the requirements and no penalties would be assessed.

Oversight assumes that due to the complexity of the proposal it is difficult for local political subdivisions and universities to place a definitive cost on this proposal. Oversight assumes that local political subdivisions and universities will be subjected to these new requirements and will have increased administrative costs to comply. Oversight will show the impact as unknown to local political subdivisions and university funds.

Officials at the **Office of State Courts Administrator** assume this proposal would not fiscally impact them as they do not meet the definition of a state agency as defined by this proposal.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** state 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 \$2,500. 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 the 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE			
<u>Cost - Division of Purchasing</u>			
Personal Service	(\$683,180)	(\$828,014)	(\$836,294)
Fringe Benefits	(\$348,456)	(\$422,329)	(\$426,552)
Equipment and Expenses	<u>(\$57,858)</u>	<u>(\$3,060)</u>	<u>(\$3,060)</u>
<u>Total Costs - DPMM</u>	(\$1,089,494)	(\$1,253,403)	(\$1,265,906)
FTE Change - DPMM	18 FTE	18 FTE	18 FTE
<u>Cost - Office of State Auditor §34.551</u>			
Personal Service	(\$34,794)	(\$42,171)	(\$42,592)
Fringe Benefits	(\$17,747)	(\$21,509)	(\$21,724)
Equipment and Expenses	<u>(\$5,328)</u>	<u>(\$326)</u>	<u>(\$334)</u>
<u>Total Costs - State Auditor</u>	(\$57,869)	(\$64,006)	(\$64,650)
FTE Change - SAO	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE			
	<u>(\$1,330,556)</u>	<u>(\$1,317,409)</u>	<u>(\$1,330,556)</u>
Estimated Net FTE Change on General Revenue	19 FTE	19 FTE	19 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2015 (10 Mo.)	FY 2016	FY 2017
STATE FACILITIES MAINTENANCE & OPERATIONS FUND			
<u>Cost - Division of Facilities Maintenance</u>			
Personal Service	(\$1,205,240)	(\$1,460,751)	(\$1,475,358)
Fringe Benefits	(\$614,733)	(\$745,056)	(\$752,506)
Equipment and Expenses	(\$208,792)	(\$61,090)	(\$62,617)
Rental Space	<u>(\$75,000)</u>	<u>(\$75,000)</u>	<u>(\$75,000)</u>
Total Costs - FMDC	<u>(\$2,103,765)</u>	<u>(\$2,341,897)</u>	<u>(\$2,365,481)</u>
FTE Change - FMDC	25 FTE	25 FTE	25 FTE
ESTIMATED NET EFFECT ON STATE FACILITIES MAINTENANCE & OPERATIONS FUND			
	<u>(\$2,103,765)</u>	<u>(\$2,341,897)</u>	<u>(\$2,365,481)</u>
Estimated Net FTE Change on State Facilities Maintenance & Operations Fund			
	25 FTE	25 FTE	25 FTE
UNIVERSITY FUNDS			
<u>Cost - increased administrative expenditures for compliance</u>			
	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON UNIVERSITY FUNDS			
	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
LOCAL POLITICAL SUBDIVISIONS			
<u>Cost</u> - increased administrative expenditures for compliance	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISION FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

Small businesses may be impacted by the changes to the purchasing procedures.

FISCAL DESCRIPTION

This bill establishes the Partnership for Public Facilities and Infrastructure Act.

The bill requires a private entity seeking authorization to develop or operate a qualifying project as specified in the bill to first obtain approval of the responsible public entity. The private entity may initiate the approval process by making the request to the public entity accompanied by specified materials and information unless waived by the responsible public entity or the responsible public entity may request proposals or invite bids. The responsible public entity may reject any proposal initiated by a private entity at any time. If the responsible public entity rejects a proposal initiated by a private entity that purports to develop specific cost savings, the public entity must specify the basis for the rejection.

Any public entity may dedicate any property interest to a private entity that it has for public use in a qualifying project if the public entity determines that doing so will serve the public purpose of Sections 34.500 to 34.570, RSMo, by minimizing the cost of the project or reducing the delivery time of the project. The property interest may include licenses, franchises, easements, or any other right or interest the public entity deems appropriate and in conformance with the law.

The responsible public entity may determine that the development or operation of the qualifying project serves public purpose if:

- (1) There is a public need for or benefit derived from the qualifying project of the type the private entity proposes as a qualifying project;
- (2) The estimated cost of the qualifying project is reasonable in relation to similar facilities; and

FISCAL DESCRIPTION (continued)

(3) The private entity's plans will result in the timely development or operation of the qualifying project.

Prior to requesting or considering a proposal for a qualifying project, the responsible public entity is required to establish and comply with publicly available guidelines which include but are not limited to:

(1) Public notice and availability of representatives of the responsible public entity to meet with private entities considering a proposal;

(2) Reasonable criteria for choosing among competing proposals;

(3) Suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement;

(4) Authorization for accelerated selection and review and documentation timelines for proposals involving a qualifying project that the responsible public entity deems a priority;

(5) Financial review and analysis procedures that include specified information related to the proposed qualifying project;

(6) Consideration of the nonfinancial benefits of a proposed qualifying project;

(7) A mechanism for the applicable appropriating body to review a proposed interim or comprehensive agreement prior to execution;

(8) Establishment of criteria for the creation and responsibilities of an oversight committee for the proposed qualifying project or compliance with specified requirements;

(9) Analysis of the adequacy of the information released when seeking competing proposals and providing for the enhancement of the information, if deemed necessary, to encourage competition;

(10) Establishment of criteria, key decision points, and approvals required to ensure that the responsible public entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement; and

(11) The posting and publishing of public notice of a private entity's request for approval of a qualifying project.

FISCAL DESCRIPTION (continued)

The private entity must notify each affected jurisdiction, and the jurisdiction has 60 days to make comments on the proposed qualifying project.

If there is a material default by the private entity, the responsible public entity may:

- (1) Assume the responsibilities and duties of the private entity;
- (2) Acquire the qualifying project through the power of condemnation;
- (3) Terminate, with cause, the interim or comprehensive agreement; or
- (4) Elect to take over the development or operation of the qualifying project.

The responsible public entity must hold a public hearing on the proposals during the review process but not later than 30 days prior to entering into an interim or comprehensive agreement. The responsible public entity may close meetings, records, and votes relating to memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals.

The Partnership for Public Facilities and Infrastructure Advisory Commission is established to advise any and all responsible public entities that are state agencies, commissions, boards, or institutions supported wholly or partially by public funds on proposals received under these provisions. The 11-member commission is to consist of specified members of the General Assembly and state officials. The commission must hold meetings quarterly or upon the call of the chairperson. A copy of the proceedings of the commission must be filed with the Joint Committee on Legislative Research.

Each responsible public entity that is partially or fully funded by the state that receives detailed proposals from private entities for a qualifying project must provide copies of the proposals to the chairperson of the commission and other specified individuals prior to entering into the negotiation of an interim or comprehensive agreement with specified exceptions.

The bill prohibits the Governor, his or her political action committee, or any department directors, if the directors are responsible for an executive branch agency with jurisdiction over the matters at issue, from knowingly soliciting or accepting a contribution, gift, or other item with a value of more than \$50 from specified individuals who have submitted a bid or proposal to an executive branch agency during specified periods with specified exceptions. Any person who knowingly violates this provision must be subject to a fine of \$500 or up to two times the amount of the contribution or gift, whichever is greater.

FISCAL DESCRIPTION (continued)

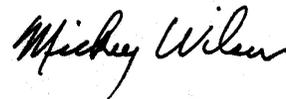
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Central County Fire and Rescue
City of Kansas City
Department of Agriculture
Department of Conservation
Department of Corrections
Department of Economic Development
Department of Elementary and Secondary Education
Department of Health and Senior Services
Department of Higher Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Labor and Industrial Relations
Department of Mental Health
Department of Natural Resources
Department of Public Safety
 Capitol Police
 Division of Alcohol and Tobacco Control
Department of Revenue
Department of Social Services
Joint Committee on Legislative Research
Linn State Technical College
Missouri Department of Transportation
Missouri Gaming Commission
Missouri Highway Patrol
Missouri National Guard
Missouri Senate
Missouri State University
Missouri Western State University
Missouri Veterans Commission
Office of Administration
 Information Technology Services Division
 Division of Purchasing and Materials Management
 Division of Facilities Maintenance, Design and Construction
Office of Attorney General
Office of the Governor

SOURCES OF INFORMATION (continued)

Office of Prosecution Services
Office of the State Auditor
Office of the Secretary of State
Office of State Courts Administrator
Office of the State Public Defender
Platte County Board of Election Commission
Springfield Police Department
State Emergency Management Agency
St. Louis County
St. Louis County Board of Election Commission
University of Central Missouri
University of Missouri



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