

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 4167-01  
BILL NO.: HB 1728 with HCA 1  
SUBJECT: Contracts and Contractors; State Departments  
TYPE: Original  
DATE: March 7, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$91,709)	(\$103,652)	(\$106,269)
Various	(Unknown)	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>All</u> State Funds*</b>	<b>(\$91,709)</b>	<b>(\$103,652)</b>	<b>(\$106,269)</b>

\*Does not include possible increased costs for services and goods.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 7 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration - Division of Purchasing and Materials Management (DPM)** assume the DPM currently has 113 contracts with MBE/WBEs participating as subcontractors. These contracts require the prime contractor to submit monthly participation reports of payments made to their MBE/WBE subcontractors. To effectively audit the MBE/WBE participation reports, DPM would require an Auditor II position. Auditing the participation reports may also require travel to the prime contractors or subcontractors' locations to verify the accuracy of the reports.

In order to ensure that at least 30% of all contracts are awarded to Missouri based businesses, DPM would require a Buyer III position to track all contract awards and verify that the contractors meet the definition of a Missouri based businesses. If the 30% participation level is not being obtained, this position would develop and implement strategies such as set-asides or preferences for Missouri based businesses.

It is anticipated that the requirement to award cost-plus contracts to any willing contractor meeting technical specifications and the 30% Missouri based business requirement may increase the cost of products/services purchased by state agencies. However, DPM is unable to reasonably estimate the fiscal impact.

Officials from the **Department of Health (DOH)** assume they would need to hire one Procurement Officer II (1 FTE at \$46,080 per year) to monitor all purchases for the DOH to determine if Missouri-based firms are utilized, and if so, to ensure the preferences are applied correctly. A database would be designed, developed and maintained by this individual. All contractual language in bids would be reviewed for "intentionally preventing" a Missouri-based business to participate in the bid process. Market research would be required on each and every type of purchase to determine if a Missouri-based business is in existence that could provide the specific type of item required. Annual costs, including salary, fringe and associated expense and equipment would be approximately \$75,000. **Oversight** assumes any additional duties to implement this proposal should be similar in the state agencies, other than the audit responsibilities required by the COA, and therefore, assumes the DOH could absorb any additional workload, as other agencies have assumed. However, if the workload should become significant, the DOH could request additional resources through the normal budget process.

Officials from the **Department of Social Services (DOS)** assume the prohibition against contracts, which intentionally prevents Missouri business from winning the bid, applies to none of the contracts issued by DBF. Also because DBF has no cost plus contracts in force, the State

ASSUMPTION (continued)

Auditor review and the open contract provisions would not apply. To be able to purchase from Federal GSA contracts would have no significant cost impact until the DOS was able to shift enough buying onto those contracts to allow a reduction in procurement operations. It is not possible to determine if there would be an increased cost due to the requirement to award at least thirty percent of all contracts to Missouri based businesses.

In a similar previous proposal, officials from the **Department of Revenue (DOR)** assumed the proposed legislation could result in the DOR not being able to accept the lowest bidder for purchases. The impact, however, is unknown.

Officials from the **Department of Natural Resources (DNR)** assume the proposed legislation would result in all additional contract evaluation, audits and prosecution of violators being borne by the Office of Administration, State Auditor's Office and the Office of the Attorney General, respectively. The DNR would not be fiscally impacted by these additional duties. There is the potential for savings from allowing the use of federal governmental services administration contracts, but the DNR is unable to determine the potential savings. There is no way to determine if there will be any increase in cost due to this proposal.

Officials from the **Coordinating Board for Higher Education (CBH)** assume it is unclear as to whether this requirement would apply equally to all agencies, or only to the state as a whole. If it were to apply to every agency, the 30% participation mandate for Missouri-based businesses in all contracts may create a fiscal impact.

The main contract that CBH awards is the federal student loan servicing contract. This is a multi-million dollar contract for which only a few companies in the country are capable of bidding. No Missouri-based firms have ever bid on this contract. Yet if one were to arise and the cost was only a few percent higher than the current contract, the impact, if the CBH were required to award to the Missouri company, could still be in the hundreds of thousands of dollars. Thus the fiscal impact is unknown.

Some institutions of higher education that have many external contracts may also realize a fiscal impact.

In a similar previous proposal, officials from the **Office of the Secretary of State (SOS)** assumed the proposal would result in the need for an additional Executive I (1 FTE at \$26,964 per year) to assist the Procurement Officer in verifying "Missouri based business, product or service". The SOS also assumes there could be an increase in the cost for commodities and

ASSUMPTION (continued)

services. Savings due to Section 34.046, allowing the state to participate in cooperative procurement agreements, including the federal governmental services administration, are unknown. **Oversight** assumes any additional duties to implement this proposal should be similar in the state agencies, other than the audit responsibilities required by the COA, and therefore, assumes the SOS could absorb any additional workload, as other agencies have assumed. However, if the workload should become significant, the SOS could request additional resources through the normal budget process.

Officials from the **Office of the State Auditor (SAU)**, **Department of Public Safety (DPS)**, **Department of Economic Development (DED)**, **Missouri Department of Conservation (MDC)** and the **Department of Transportation (DHT)** assume the proposed legislation could have some fiscal impact on their agencies, but it is unknown.

In a similar previous proposal, officials from the **Department of Agriculture (AGR)** assumed the proposed legislation could have some fiscal impact on their agencies, but it is unknown.

Officials from the **Office of the Attorney General (AGO)**, **Office of State Courts Administrator (CTS)**, **Department of Insurance (INS)**, **Department of Elementary and Secondary Education (DES)** and the **Department of Mental Health (DMH)** assume the proposed legislation would have either no or minimal fiscal impact on their agencies that could be absorbed with existing resources.

In a similar previous proposal, officials from the **Office of Prosecution Services (OPS)** assumed the proposed legislation would have either no or minimal fiscal impact on their agency that could be absorbed with existing resources.

Officials from the **Department of Corrections (DOC)** did not respond to our fiscal note request.

**Oversight** assumes the component of the proposal requiring the state to grant or award at least thirty percent of all contracts to Missouri based businesses could result in greater contract costs for state agencies, but the fiscal impact is unknown.

FISCAL IMPACT - State Government                      FY 2001              FY 2002              FY 2003  
 (10 Mo.)

**GENERAL REVENUE FUND**

Costs - Office of Administration-Division of  
 Purchasing and Materials Management (DPM)

Personal Service (2 FTE)	(\$61,131)	(\$75,191)	(\$77,071)
Fringe Benefits	(18,798)	(23,121)	(23,699)
Expense and Equipment	<u>(11,780)</u>	<u>(5,340)</u>	<u>(5,499)</u>
Total <u>Costs</u> - DPM	(\$91,709)	(\$103,652)	(\$106,269)

**ESTIMATED NET EFFECT TO  
 GENERAL REVENUE FUND**

**(\$91,709)      (\$103,652)      (\$106,269)**

**VARIOUS STATE FUNDS**

Costs-Increased Contract Amounts                      **(\$Unknown)      (\$Unknown)      (\$Unknown)**

FISCAL IMPACT - Local Government                      FY 2001              FY 2002              FY 2003  
 (10 Mo.)

**\$0                      \$0                      \$0**

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact on small businesses to the extent there could be an increase in the purchase of products and services from "Missouri based businesses", but they may also have to submit additional paperwork to prove they qualify as a Missouri based business.

DESCRIPTION

This bill makes various changes to the state purchasing law. The bill:

- (1) Requires purchasers for the state to enter into, renew, or extend state contracts to Missouri based businesses. If products or services are not available through a Missouri based business, a purchaser may purchase from another source. The Commissioner of Administration must adopt rules for distributing potential bids to Missouri based businesses;

DESCRIPTION (continued)

- (2) Requires the State Auditor to annually audit cost-plus contracts to determine if the state is receiving the best price;
- (3) Allows an open contract which is considered to be any contract that is let, renewed, or extended which is based on cost plus a fixed guaranteed profit to be supplied by any willing provider who meets the technical requirements for the product, except in the event of a state disaster emergency;
- (4) Expands the ability of the Commissioner of Administration to participate in cooperative purchasing agreements and purchase supplies from the federal governmental services administration;
- (5) Expands the purchase preference the commissioner must give to include products assembled in the state;
- (6) Requires the state to grant or award at least thirty percent of all contracts to Missouri based businesses; and
- (7) Requires the Office of Administration to annually audit minority business participation reports.

The bill also makes submitting a false report to the state the crime of making a false declaration and increases the penalty for the crime from a class B to a class A misdemeanor. The Attorney General is given authority to prosecute the crime of making a false declaration.

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

This proposal would not affect Total State Revenues.

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SOURCES OF INFORMATION

Office of Administration - Division of Purchasing and Materials Management  
Department of Health  
Department of Social Services  
Department of Revenue  
Department of Natural Resources  
Coordinating Board for Higher Education  
Office of the Secretary of State  
Office of the State Auditor  
Department of Public Safety  
Department of Economic Development  
Missouri Department of Conservation  
Department of Transportation  
Department of Agriculture  
Office of the Attorney General  
Office of State Courts Administrator  
Department of Insurance  
Department of Elementary and Secondary Education  
Department of Mental Health  
Office of Prosecution Services

NOT RESPONDING: Department of Corrections



Jeanne Jarrett, CPA  
Director  
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