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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 3620

03/12/2018 Authored by Johnson, S.; Olson and Bly
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to state government; creating the Office of Enterprise Sustainability;
1.3 making Department of Administration technical changes; amending Minnesota
1.4 Statutes 2016, sections 16C.05, subdivision 2; 16C.19; 16C.36; 138.31, by adding
1.5 a subdivision; 138.34; 138.40, subdivisions 1, 2, 3; 138.666; 138.667; 138.763,
1.6 subdivision 1; Minnesota Statutes 2017 Supplement, sections 138.081, subdivisions
1.7 2, 3; 138.665, subdivision 2; proposing coding for new law in Minnesota Statutes,
1.8 chapter 16B.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. [16B.535] ENTERPRISE SUSTAINABILITY.

1.11 Subdivision 1. Office of Enterprise Sustainability. (a) The Office of Enterprise
1.12 Sustainability is created to assist state agencies with meeting the objectives in this section
1.13 including sharing best practices and assisting state agencies to plan for and implement
1.14 improvements and monitor progress toward achieving intended outcomes.

1.15 (b) The Office of Enterprise Sustainability shall at a minimum:

1.16 (1) manage a sustainability metrics and reporting system, including a public dashboard
1.17 for Minnesotans to track progress;

1.18 (2) assist state agencies on developing sustainability plans;

1.19 (3) provide state agencies with sustainability best practices and other available tools and
1.20 resources; and

1.21 (4) act as a resource to help remove barriers.

1.22 Subd. 2. State agency responsibilities. (a) Each cabinet-level agency is required to
1.23 participate in sustainability efforts and statewide enterprise sustainability goals. State agencies

2.1 and boards that are not cabinet-level agencies must take steps to achieve sustainability goals,
2.2 but are not required to participate at the same level as cabinet-level agencies.

2.3 (b) Initial statewide enterprise sustainability goals are:

2.4 (1) fleet, shall be a 30 percent reduction of state fleet consumption of fossil fuels by
2.5 2027 relative to a 2017-adjusted baseline;

2.6 (2) water, shall be a 15 percent reduction of water use by 2025 relative to a 2017-adjusted
2.7 baseline;

2.8 (3) procurement, shall have 25 percent of total spent on priority contracts that are
2.9 sustainable purchases by 2025;

2.10 (4) greenhouse, shall be a 30 percent reduction of greenhouse gas emissions by 2025
2.11 relative to a 2005-calculated baseline;

2.12 (5) energy, shall be a 30 percent reduction in consumption of energy per square foot by
2.13 2027 relative to a 2017-adjusted baseline; and

2.14 (6) solid waste, shall be a 75 percent combined recycling and composting rate of solid
2.15 waste by 2030.

2.16 (c) Statewide enterprise sustainability goals may be revised jointly by the commissioners
2.17 of administration, natural resources, the Pollution Control Agency, and commerce once
2.18 these goals have been achieved or need to be updated. Any change in enterprise sustainability
2.19 goals must be communicated to the legislative committees with jurisdiction over state
2.20 government.

2.21 Sec. 2. Minnesota Statutes 2016, section 16C.05, subdivision 2, is amended to read:

2.22 Subd. 2. **Creation and validity of contracts.** (a) A contract and amendments are not
2.23 valid and the state is not bound by them and no agency, without the prior written approval
2.24 of the commissioner granted pursuant to subdivision 2a, may authorize work to begin on
2.25 them unless:

2.26 (1) they have first been executed by the head of the agency or a delegate who is a party
2.27 to the contract;

2.28 (2) they have been approved by the commissioner; and

2.29 (3) the accounting system shows an encumbrance for the amount of the contract liability,
2.30 except as allowed by policy approved by the commissioner and commissioner of management
2.31 and budget for routine, low-dollar procurements and section 16B.98, subdivision 11.

3.1 (b) Grants, interagency agreements, purchase orders, work orders, and annual plans need
 3.2 not, in the discretion of the commissioner and attorney general, require the signature of the
 3.3 commissioner and/or the attorney general. A signature is not required for work orders and
 3.4 amendments to work orders related to Department of Transportation contracts. Bond purchase
 3.5 agreements by the Minnesota Public Facilities Authority do not require the approval of the
 3.6 commissioner.

3.7 (c) Amendments to contracts must entail tasks that are substantially similar to those in
 3.8 the original contract or involve tasks that are so closely related to the original contract that
 3.9 it would be impracticable for a different contractor to perform the work. The commissioner
 3.10 or an agency official to whom the commissioner has delegated contracting authority under
 3.11 section 16C.03, subdivision 16, must determine that an amendment would serve the interest
 3.12 of the state better than a new contract and would cost no more.

3.13 (d) A record must be kept of all responses to solicitations, including names of bidders
 3.14 and amounts of bids or proposals. A fully executed copy of every contract, amendments to
 3.15 the contract, and performance evaluations relating to the contract must be kept on file at
 3.16 the contracting agency for a time equal to that specified for contract vendors and other
 3.17 parties in subdivision 5. These records are open to public inspection, subject to section
 3.18 13.591 and other applicable law.

3.19 (e) The attorney general must periodically review and evaluate a sample of state agency
 3.20 contracts to ensure compliance with laws.

3.21 (f) Before executing a contract or license agreement involving intellectual property
 3.22 developed or acquired by the state, a state agency shall seek review and comment from the
 3.23 ~~attorney general~~ commissioner on the terms and conditions of the contract or agreement.

3.24 Sec. 3. Minnesota Statutes 2016, section 16C.19, is amended to read:

3.25 **16C.19 ELIGIBILITY; RULES.**

3.26 (a) A small business wishing to participate in the programs under section 16C.16,
 3.27 subdivisions 4 to 7, must be certified by the commissioner; or, if authorized by the
 3.28 commissioner, by a nationally recognized certifying organization. The commissioner may
 3.29 choose to authorize a nationally recognized certifying organization if the certification
 3.30 requirements are substantially the same as those adopted under the rules authorized in this
 3.31 section and the business meets the requirements in section 16C.16, subdivision 2.

3.32 (b) The commissioner shall adopt by rule standards and procedures for certifying that
 3.33 small targeted group businesses, small businesses located in economically disadvantaged

4.1 areas, and veteran-owned small businesses are eligible to participate under the requirements
4.2 of sections 16C.16 to 16C.21. The commissioner shall adopt by rule standards and procedures
4.3 for hearing appeals and grievances and other rules necessary to carry out the duties set forth
4.4 in sections 16C.16 to 16C.21.

4.5 ~~(b)~~ (c) The commissioner may make rules which exclude or limit the participation of
4.6 nonmanufacturing business, including third-party lessors, brokers, franchises, jobbers,
4.7 manufacturers' representatives, and others from eligibility under sections 16C.16 to 16C.21.

4.8 ~~(e)~~ (d) The commissioner may make rules that set time limits and other eligibility limits
4.9 on business participation in programs under sections 16C.16 to 16C.21.

4.10 ~~(d)~~ (e) Notwithstanding paragraph (a), for purposes of sections 16C.16 to 16C.21, a
4.11 veteran-owned small business, the principal place of business of which is in Minnesota, is
4.12 certified if:

4.13 (1) it has been verified by the United States Department of Veterans Affairs as being
4.14 either a veteran-owned small business or a service-disabled veteran-owned small business,
4.15 in accordance with Public Law 109-461 and Code of Federal Regulations, title 38, part 74;
4.16 or

4.17 (2) the veteran-owned small business supplies the commissioner with proof that the
4.18 small business is majority-owned and operated by:

4.19 (i) a veteran as defined in section 197.447; or

4.20 (ii) a veteran with a service-connected disability, as determined at any time by the United
4.21 States Department of Veterans Affairs.

4.22 ~~(e)~~ (f) Until rules are adopted pursuant to paragraph (a) for the purpose of certifying
4.23 veteran-owned small businesses, the provisions of Minnesota Rules, part 1230.1700, may
4.24 be read to include veteran-owned small businesses. In addition to the documentation required
4.25 in Minnesota Rules, part 1230.1700, the veteran owner must have been discharged under
4.26 honorable conditions from active service, as indicated by the veteran owner's most current
4.27 United States Department of Defense form DD-214.

4.28 ~~(f)~~ (g) Notwithstanding paragraph (a), for purposes of sections 16C.16 to 16C.21, a
4.29 minority- or woman-owned small business, the principal place of business of which is in
4.30 Minnesota, is certified if it has been certified by the Minnesota unified certification program
4.31 under the provisions of Code of Federal Regulations, title 49, part 26.

4.32 ~~(g)~~ (h) The commissioner may adopt rules to implement the programs under section
4.33 16C.16, subdivisions 4 to 7, using the expedited rulemaking process in section 14.389.

5.1 Sec. 4. Minnesota Statutes 2016, section 16C.36, is amended to read:

5.2 **16C.36 REORGANIZATION SERVICES UNDER MASTER CONTRACT.**

5.3 The commissioner of administration must make available under a one or more master
5.4 contract ~~program~~ programs a list of eligible contractors who can assist state agencies in
5.5 using data analytics or other improvement methodologies to:

5.6 (1) accomplish agency reorganization along service rather than functional lines in order
5.7 to provide more efficient and effective service; and

5.8 (2) bring about internal reorganization of management functions in order to flatten the
5.9 organizational structure by requiring that decisions are made closer to the service needed,
5.10 eliminating redundancies, and optimizing the span of control ratios to public and private
5.11 sector industry benchmarks.

5.12 ~~The commissioner of administration must report to the legislature by January 15, 2013,~~
5.13 ~~and January 15, 2014, on state agency use of eligible contractors under this section, and on~~
5.14 ~~improvements in efficiency and effectiveness, including the contract oversight process, of~~
5.15 ~~state services as a result of services provided by contractors.~~

5.16 Sec. 5. Minnesota Statutes 2017 Supplement, section 138.081, subdivision 2, is amended
5.17 to read:

5.18 Subd. 2. **Commissioner's responsibilities.** The commissioner as the state historic
5.19 preservation officer shall be responsible for the preparation, implementation and
5.20 administration of the State Historic Preservation Plan and shall administer the State Historic
5.21 Preservation Program authorized by the National Historic Preservation Act (United States
5.22 Code, ~~title 16, section 470 et seq.~~ title 54, section 100101, as amended). The commissioner
5.23 shall review and approve in writing all grants-in-aid for architectural, archaeological and
5.24 historic preservation made by state agencies and funded by the state or a combination of
5.25 state and federal funds in accordance with the State Historic Preservation Program.

5.26 Sec. 6. Minnesota Statutes 2017 Supplement, section 138.081, subdivision 3, is amended
5.27 to read:

5.28 Subd. 3. **Administration of federal act.** The Department of Administration is designated
5.29 as the state agency to administer the provisions of the federal act providing for the
5.30 preservation of historical and archaeological data, United States Code, ~~title 16, sections 469~~
5.31 ~~to 469C~~ title 54, section 100101, as amended, insofar as the provisions of the act provide
5.32 for implementation by the state.

6.1 Sec. 7. Minnesota Statutes 2016, section 138.31, is amended by adding a subdivision to
6.2 read:

6.3 Subd. 13a. **State Historic Preservation Office.** "State Historic Preservation Office"
6.4 means the State Historic Preservation Office at the Department of Administration.

6.5 Sec. 8. Minnesota Statutes 2016, section 138.34, is amended to read:

6.6 **138.34 ADMINISTRATION OF THE ACT.**

6.7 The state archaeologist shall act as the agent of the state to administer and enforce the
6.8 provisions of sections 138.31 to 138.42. Some enforcement provisions are shared with the
6.9 society and the State Historic Preservation Office.

6.10 Sec. 9. Minnesota Statutes 2016, section 138.40, subdivision 1, is amended to read:

6.11 Subdivision 1. **Cooperation.** The Department of Natural Resources, the Department of
6.12 Transportation, and all other state agencies whose activities may be affected, shall cooperate
6.13 with the historical society, State Historic Preservation Office, and the state archaeologist
6.14 to carry out the provisions of sections 138.31 to 138.42 and the rules issued thereunder, but
6.15 sections 138.31 to 138.42 are not meant to burden persons who wish to use state property
6.16 for recreational and other lawful purposes or to unnecessarily restrict the use of state property.

6.17 Sec. 10. Minnesota Statutes 2016, section 138.40, subdivision 2, is amended to read:

6.18 Subd. 2. **Compliance, enforcement, preservation.** State and other governmental agencies
6.19 shall comply with and aid in the enforcement of provisions of sections 138.31 to 138.42.
6.20 Conservation officers and other enforcement officers of the Department of Natural Resources
6.21 shall enforce the provisions of sections 138.31 to 138.42 and report violations to the ~~director~~
6.22 ~~of the society~~ state archaeologist. When archaeological or historic sites are known or, based
6.23 on scientific investigations are predicted to exist on public lands or waters, the agency or
6.24 department controlling said lands or waters shall use the professional services of
6.25 archaeologists from the University of Minnesota, Minnesota Historical Society, or other
6.26 qualified professional archaeologists, to preserve these sites. In the event that archaeological
6.27 excavation is required to protect or preserve these sites, state and other governmental agencies
6.28 may use their funds for such activities.

6.29 Sec. 11. Minnesota Statutes 2016, section 138.40, subdivision 3, is amended to read:

6.30 Subd. 3. **Review of plans.** When significant archaeological or historic sites are known
6.31 or, based on scientific investigations, are predicted to exist on public lands or waters, the

7.1 agency or department controlling said lands or waters shall submit construction or
 7.2 development plans to the state archaeologist and ~~the director of the society~~ State Historic
 7.3 Preservation Office for review prior to the time bids are advertised. The state archaeologist
 7.4 and the society shall promptly review such plans and within 30 days of receiving the plans
 7.5 shall make recommendations for the preservation of archaeological or historic sites which
 7.6 may be endangered by construction or development activities. When archaeological or
 7.7 historic sites are related to Indian history or religion, the state archaeologist shall submit
 7.8 the plans to the Indian Affairs Council for the council's review and recommend action.

7.9 Sec. 12. Minnesota Statutes 2017 Supplement, section 138.665, subdivision 2, is amended
 7.10 to read:

7.11 Subd. 2. ~~Mediation~~ **Review process.** The state, state departments, agencies, and political
 7.12 subdivisions, including the Board of Regents of the University of Minnesota, have a
 7.13 responsibility to protect the physical features and historic character of properties designated
 7.14 in sections 138.662 and 138.664 or listed on the National Register of Historic Places created
 7.15 by Public Law 89-665. Before carrying out any undertaking that will affect designated or
 7.16 listed properties, or funding or licensing an undertaking by other parties, the state department
 7.17 or agency shall consult with the State Historic Preservation Office pursuant to ~~the society's~~
 7.18 its established procedures to determine appropriate treatments and to seek ways to avoid
 7.19 and mitigate any adverse effects on designated or listed properties. If the state department
 7.20 or agency and the State Historic Preservation Office agree in writing on a suitable course
 7.21 of action, the project may proceed. If the parties cannot agree, any one of the parties may
 7.22 request that the governor appoint and convene a mediation task force consisting of five
 7.23 members, two appointed by the governor, the chair of the State Review Board of the State
 7.24 Historic Preservation Office, the commissioner of administration or the commissioner's
 7.25 designee, and one member ~~who is not an employee of the Minnesota Historical Society~~
 7.26 appointed by the director of the Minnesota Historical Society. The two appointees of the
 7.27 governor and the one of the director of the society shall be qualified by training or experience
 7.28 in one or more of the following disciplines: (1) history; (2) archaeology; and (3) architectural
 7.29 history. The mediation task force is not subject to the conditions of section 15.059. This
 7.30 subdivision does not apply to section 138.662, subdivision 24, and section 138.664,
 7.31 subdivisions 8 and 111.

7.32 Sec. 13. Minnesota Statutes 2016, section 138.666, is amended to read:

7.33 **138.666 COOPERATION.**

8.1 The state, state departments and agencies, political subdivisions, and the Board of Regents
8.2 of the University of Minnesota shall cooperate with the Minnesota Historical Society and
8.3 the State Historic Preservation Office in safeguarding state historic sites and in the
8.4 preservation of historic and archaeological properties.

8.5 Sec. 14. Minnesota Statutes 2016, section 138.667, is amended to read:

8.6 **138.667 HISTORIC PROPERTIES; CHANGES.**

8.7 Properties designated as historic properties by sections 138.661 to 138.664 may be
8.8 changed from time to time, and the Minnesota Historical Society and the State Historic
8.9 Preservation Office shall notify the legislature of the need for changes, and shall make
8.10 recommendations to keep the state historic sites network and the state register of historic
8.11 places current and complete. The significance of properties proposed for designation shall
8.12 be documented under the documentation standards established by the ~~Minnesota Historical~~
8.13 ~~Society~~ State Historic Preservation Office. This documentation shall include the opinion of
8.14 the ~~Minnesota Historical Society~~ State Historic Preservation Office as to whether the property
8.15 meets the selection criteria.

8.16 Sec. 15. Minnesota Statutes 2016, section 138.763, subdivision 1, is amended to read:

8.17 Subdivision 1. **Membership.** There is a St. Anthony Falls Heritage Board consisting of
8.18 22 members with the director of the Minnesota Historical Society as chair. The members
8.19 include the mayor; the chair of the Hennepin County Board of Commissioners or the chair's
8.20 designee; the president of the Minneapolis Park and Recreation Board or the president's
8.21 designee; the superintendent of the park board; two members each from the house of
8.22 representatives appointed by the speaker, the senate appointed by the Rules Committee, the
8.23 city council, the Hennepin County Board, and the park board; one member each from the
8.24 preservation commission, the State Historic Preservation Office, Hennepin County Historical
8.25 Society, and the society; one person appointed by the park board; and two persons appointed
8.26 by the chair of the board.