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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2372

- 02/25/2014 Authored by Schoen
The bill was read for the first time and referred to the Committee on Government Operations
- 03/13/2014 Adoption of Report: Amended and re-referred to the Committee on Public Safety Finance and Policy
- 03/20/2014 Adoption of Report: Placed on the General Register
Read Second Time

1.1 A bill for an act
 1.2 relating to human rights; making changes to scope of application for certificate
 1.3 of compliance; clarifying requirements for bids and proposals from certain
 1.4 businesses; amending Minnesota Statutes 2012, section 473.144; Minnesota
 1.5 Statutes 2013 Supplement, sections 363A.36, subdivision 1; 363A.37,
 1.6 subdivision 1.

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

1.8 Section 1. Minnesota Statutes 2013 Supplement, section 363A.36, subdivision 1,
 1.9 is amended to read:

1.10 Subdivision 1. **Scope of application.** ~~(a) For all contracts for goods and services in~~
 1.11 ~~excess of \$100,000, no department or agency of the state shall accept any bid or proposal~~
 1.12 ~~for a contract or agreement from any business having more than 40 full-time employees~~
 1.13 ~~within this state on a single working day during the previous 12 months, unless the~~
 1.14 ~~commissioner is in receipt of the business' affirmative action plan for the employment of~~
 1.15 ~~minority persons, women, and qualified disabled individuals. No department or agency of~~
 1.16 ~~the state shall execute any such contract or agreement until the affirmative action plan~~
 1.17 ~~has been approved by the commissioner. Receipt of a certificate of compliance issued by~~
 1.18 ~~the commissioner shall signify that a firm or business has an affirmative action plan that~~
 1.19 ~~has been approved by the commissioner. A certificate shall be valid for a period of four~~
 1.20 ~~years. A municipality as defined in section 466.01, subdivision 1, that receives state~~
 1.21 ~~money for any reason is encouraged to prepare and implement an affirmative action plan~~
 1.22 ~~for the employment of minority persons, women, and the qualified disabled and submit the~~
 1.23 ~~plan to the commissioner.~~

1.24 (b) ~~This paragraph applies to a contract for goods or services in excess of \$100,000~~
 1.25 ~~to be entered into between a department or agency of the state and a business that is~~

2.1 ~~not subject to paragraph (a), but that has more than 40 full-time employees on a single~~
2.2 ~~working day during the previous 12 months in the state where the business has its primary~~
2.3 ~~place of business. A department or agency of the state may not execute a contract or~~
2.4 ~~agreement with a business covered by this paragraph unless the business has a certificate~~
2.5 ~~of compliance issued by the commissioner under paragraph (a) or the business certifies~~
2.6 ~~that it is in compliance with federal affirmative action requirements.~~

2.7 (a) No department or agency of the state shall accept any bid, proposal, contract, or
2.8 agreement for goods and services in excess of \$100,000 from any business having more
2.9 than 40 full-time employees in this state or a state where the business has its primary place
2.10 of business on a single working day during the previous 12 months unless the business
2.11 has a certificate of compliance from the commissioner, has applied for a certificate of
2.12 compliance from the commissioner, or has certified in writing that it is exempt under
2.13 this provision. No department or agency of the state shall execute any such contract or
2.14 agreement with a business unless the business has a certificate of compliance from the
2.15 commissioner or the business has certified in writing that it is exempt. A certificate is
2.16 valid for a period of four years. A municipality as defined in section 466.01, subdivision
2.17 1, that receives state money for any reason is encouraged to prepare and implement an
2.18 affirmative action plan for the employment of minority persons, women, and the qualified
2.19 disabled, and submit the plan to the commissioner.

2.20 ~~(e)~~ (b) This section does not apply to contracts entered into by the State Board of
2.21 Investment for investment options under section 352.965, subdivision 4.

2.22 ~~(d)~~ (c) The commissioner shall issue a certificate of compliance or notice of denial
2.23 within 15 days of the application submitted by the business or firm.

2.24 Sec. 2. Minnesota Statutes 2013 Supplement, section 363A.37, subdivision 1, is
2.25 amended to read:

2.26 Subdivision 1. **Rules.** The commissioner shall adopt rules to implement section
2.27 363A.36 specifying the criteria used to review affirmative action plans and the standards
2.28 used to review implementation of affirmative action plans. ~~A firm or business certified~~
2.29 ~~to be in compliance with affirmative action requirements of a local human rights agency~~
2.30 ~~or the federal government shall be deemed to be in compliance with section 363A.36~~
2.31 ~~upon receipt by the commissioner of an affirmative action plan approved by a local~~
2.32 ~~human rights agency or the federal government and amendments to the plan which are~~
2.33 ~~necessary to address the employment of disabled persons protected by section 363A.08~~
2.34 The commissioner shall issue a certificate of compliance to a business approved by

3.1 another governmental entity if the affirmative action plan addresses the employment of
3.2 disabled persons protected by section 363A.08.

3.3 Sec. 3. Minnesota Statutes 2012, section 473.144, is amended to read:

3.4 **473.144 CERTIFICATES OF COMPLIANCE FOR CONTRACTS.**

3.5 (a) For all contracts for goods and services in excess of \$100,000, neither the
3.6 council nor an agency listed in section 473.143, subdivision 1, shall accept any bid or
3.7 proposal for a contract or agreement from any business having more than 40 full-time
3.8 employees within this state ~~on a single working day during the previous 12 months, or a~~
3.9 state where the business has its primary place of business on a single working day during
3.10 the previous 12 months, unless the ~~firm or~~ business has an affirmative action plan for the
3.11 employment of minority persons, women, and qualified disabled individuals submitted
3.12 to the commissioner of human rights for approval. Neither the council nor an agency
3.13 listed in section 473.143, subdivision 1, shall execute the contract or agreement until the
3.14 affirmative action plan has been approved by the commissioner of human rights. Receipt
3.15 of a certificate of compliance from the commissioner of human rights signifies that a
3.16 business has an approved affirmative action plan a certificate of compliance from the
3.17 commissioner, has applied for a certificate of compliance from the commissioner, or has
3.18 certified in writing it is exempt from obtaining a certificate. A certificate is valid for two
3.19 years. Neither the council nor any agency listed in section 473.143, subdivision 1, shall
3.20 execute any contract or agreement with a business unless the business has a certificate
3.21 of compliance from the commissioner or the business has certified in writing that it is
3.22 exempt. Section 363A.36 governs revocation of certificates. The rules adopted by the
3.23 commissioner of human rights under section 363A.37 apply to this section.

3.24 (b) ~~This paragraph applies to a contract for goods or services in excess of \$100,000~~
3.25 ~~to be entered into between the council or an agency listed in section 473.143, subdivision~~
3.26 ~~1, and a business that is not subject to paragraph (a), but that has more than 40 full-time~~
3.27 ~~employees on a single working day during the previous 12 months in the state where the~~
3.28 ~~business has its primary place of business. The council or the agency may not execute a~~
3.29 ~~contract or agreement with a business covered by this paragraph unless the business has a~~
3.30 ~~certificate of compliance issued by the commissioner under paragraph (a) or the business~~
3.31 ~~certifies to the contracting agency that it is in compliance with federal affirmative action~~
3.32 ~~requirements.~~