

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1597

(SENATE AUTHORS: DEKRUIF, Daley, Parry, Gazelka and Miller)

DATE	D-PG	OFFICIAL STATUS
01/30/2012	3667	Introduction and first reading Referred to State Government Innovation and Veterans
02/13/2012	3785a	Comm report: To pass as amended and re-refer to Transportation
03/23/2012	4918a	Comm report: To pass as amended and re-refer to Finance
04/03/2012	5624	Comm report: To pass
	5629	Second reading
04/17/2012	5886a	Special Order: Amended
	5888	Third reading Passed
04/26/2012	6504	Returned from House with amendment
	6505	Senate concurred and repassed bill
	6505	Third reading

A bill for an act
relating to military affairs; changing the small business set-aside program
for veteran-owned small businesses; authorizing county set-aside programs
for veteran-owned small businesses; changing the award to veteran-owned
businesses in state procurement biddings; adding veterans to special emphasis in
state job recruitment; increasing credits for veterans in examination ratings in
hiring; changing pay differential salary for school district employees who are
members of the National Guard or other reserve unit on active duty; providing
civil actions; amending Minnesota Statutes 2010, sections 1.05, by adding a
subdivision; 16C.16, subdivision 6a; 43A.09; 161.321, subdivisions 2, 5, by
adding subdivisions; 197.455, subdivisions 4, 5; 471.975; proposing coding for
new law in Minnesota Statutes, chapter 375.

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

ARTICLE 1

INCREASED CREDITS FOR VETERANS IN CIVIL SERVICE EMPLOYMENT
AND EMPHASIS ON RECRUITMENT FOR STATE AGENCY EMPLOYMENT

Section 1. Minnesota Statutes 2010, section 1.05, is amended by adding a subdivision
to read:

Subd. 5. Uniformed Services Employment and Reemployment Rights Act
(USERRA). An employee, former employee, or prospective employee of the state
who is aggrieved by the state's violation of the Uniformed Services Employment and
Reemployment Rights Act, United States Code, title 38, sections 4301 to 4333, as
amended, may bring a civil action against the state in federal court or another court of
competent jurisdiction for legal or equitable relief that will effectuate the purposes of
that act.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2010, section 43A.09, is amended to read:

43A.09 RECRUITMENT.

The commissioner in cooperation with appointing authorities of all state agencies shall maintain an active recruiting program publicly conducted and designed to attract sufficient numbers of well-qualified people to meet the needs of the civil service, and to enhance the image and public esteem of state service employment. Special emphasis shall be given to recruitment of veterans and protected group members to assist state agencies in meeting affirmative action goals to achieve a balanced work force.

Sec. 3. Minnesota Statutes 2010, section 197.455, subdivision 4, is amended to read:

Subd. 4. **Nondisabled veteran's credit.** There shall be added to the competitive open examination rating of a nondisabled veteran, who so elects, a credit of ~~five~~ ten points provided that the veteran obtained a passing rating on the examination without the addition of the credit points.

Sec. 4. Minnesota Statutes 2010, section 197.455, subdivision 5, is amended to read:

Subd. 5. **Disabled veteran's credit.** There shall be added to the competitive open examination rating of a disabled veteran, who so elects, a credit of ~~ten~~ 15 points provided that the veteran obtained a passing rating on the examination without the addition of the credit points. There shall be added to the competitive promotional examination rating of a disabled veteran, who so elects, a credit of five points provided that (1) the veteran obtained a passing rating on the examination without the addition of the credit points; and (2) the veteran is applying for a first promotion after securing public employment.

ARTICLE 2

**PREFERENCE FOR VETERAN-OWNED SMALL BUSINESSES
IN STATE PROCUREMENT**

Section 1. Minnesota Statutes 2010, section 16C.16, subdivision 6a, is amended to read:

Subd. 6a. **Veteran-owned small businesses.** (a) Except when mandated by the federal government as a condition of receiving federal funds, the commissioner shall award up to a ~~six~~ eight percent preference, but no less than the percentage awarded to any other group under this section, in the amount bid on state procurement to certified small businesses that are majority-owned and operated by:

(1) recently separated veterans who have served in active military service, at any time on or after September 11, 2001, and who have been discharged under honorable

conditions from active service, as indicated by the person's United States Department of Defense form DD-214 or by the commissioner of veterans affairs;

(2) veterans with service-connected disabilities, as determined at any time by the United States Department of Veterans Affairs; or

(3) any other veteran-owned small businesses certified under section 16C.19, paragraph (d).

(b) The purpose of this designation is to facilitate the transition of veterans from military to civilian life, and to help compensate veterans for their sacrifices, including but not limited to their sacrifice of health and time, to the state and nation during their military service, as well as to enhance economic development within Minnesota.

ARTICLE 3

PREFERENCE FOR VETERAN-OWNED SMALL BUSINESSES IN STATE TRANSPORTATION CONSTRUCTION CONTRACTS

Section 1. Minnesota Statutes 2010, section 161.321, subdivision 2, is amended to read:

Subd. 2. **Small targeted group business set-asides.** (a) The commissioner may award up to a six percent preference in the amount bid for specified construction work to small targeted group businesses ~~and veteran-owned small businesses~~.

(b) The commissioner may designate a contract for construction work for award only to small targeted group businesses if the commissioner determines that at least three small targeted group businesses are likely to bid. ~~The commissioner may designate a contract for construction work for award only to veteran-owned small businesses if the commissioner determines that at least three veteran-owned small businesses are likely to bid.~~

(c) The commissioner, as a condition of awarding a construction contract, may set goals that require the prime contractor to subcontract a portion of the contract to small targeted group businesses ~~and veteran-owned small businesses~~. The commissioner must establish a procedure for granting waivers from the subcontracting requirement when qualified small targeted group businesses ~~and veteran-owned small businesses~~ are not reasonably available. The commissioner may establish financial incentives for prime contractors who exceed the goals for use of subcontractors and financial penalties for prime contractors who fail to meet goals under this paragraph. The subcontracting requirements of this paragraph do not apply to prime contractors who are small targeted group businesses ~~or veteran-owned small businesses~~.

(d) The commissioner may award up to a four percent preference in the amount bid on procurement to small businesses located in an economically disadvantaged area as defined in section 16C.16, subdivision 7.

EFFECTIVE DATE. This section is effective for contracts let on or after July 1, 2012.

Sec. 2. Minnesota Statutes 2010, section 161.321, is amended by adding a subdivision to read:

Subd. 2a. Veteran-owned small business set-asides. (a) The commissioner must award up to a six percent preference in the amount bid for specified construction work to veteran-owned small businesses, except when prohibited by the federal government as a condition of receiving federal funds. The percentage of preference in bid amount provided under this subdivision may not be less than the percentage of bid preference provided to any small targeted group business under subdivision 2.

(b) The commissioner must be as inclusive as possible in specifying contracts for construction work, as well as for construction-related goods and services, available under this bid preference program for veteran-owned small businesses. The term "construction" must be given broad meaning for purposes of specifying and letting contracts for veteran-owned small businesses and must include, but is not limited to, preplanning, planning, and all other construction-related professional support services and other work involving any and all of the stages of the construction process.

(c) The commissioner, as a condition of awarding a construction contract, must set goals that require the prime contractor to subcontract a portion of the contract to veteran-owned small businesses. The commissioner must establish a procedure for granting waivers from the subcontracting requirement when qualified veteran-owned small businesses are not reasonably available. The commissioner may establish financial incentives for prime contractors who exceed the goals for use of veteran-owned small business subcontractors and financial penalties for prime contractors who fail to meet goals under this paragraph. The subcontracting requirements of this paragraph do not apply to prime contractors who are veteran-owned small businesses.

(d) The commissioner may designate a contract for construction work for award to veteran-owned small businesses only if the commissioner determines that at least three veteran-owned small businesses are likely to bid.

EFFECTIVE DATE. This section is effective for contracts let on or after July 1, 2012.

Sec. 3. Minnesota Statutes 2010, section 161.321, subdivision 5, is amended to read:

Subd. 5. Recourse to other businesses. If the commissioner is unable to award a contract pursuant to the provisions of subdivisions 2, 2a, and 3, the award may be

placed pursuant to the normal solicitation and award provisions set forth in this chapter and chapter 16C.

EFFECTIVE DATE. This section is effective for contracts let on or after July 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 161.321, is amended by adding a subdivision to read:

Subd. 9. Purpose. The state of Minnesota recognizes that veterans bring education, training, values, leadership, and teamwork to the workplace. The purpose of this section is to facilitate the healthy transition of veterans from military to civilian life, and to help compensate veterans for their sacrifices including, but not limited to, their sacrifice of health and time to the state and nation during their military service, as well as to enhance economic development within Minnesota.

EFFECTIVE DATE. This section is effective for contracts let on or after July 1, 2012.

Sec. 5. **CERTIFICATION OF QUALIFIED BUSINESSES.**

For purposes of expediting the implementation of this article, the commissioner of transportation is exempted for a period of one year following the effective date of this section from the requirements of Minnesota Statutes, section 161.321, subdivision 6, as they would otherwise apply to this article. During this one-year exemption period, the commissioner of transportation shall establish an expedited procedure for determining that a business is eligible for a set-aside under this article.

EFFECTIVE DATE. This section is effective July 1, 2012.

ARTICLE 4

**AUTHORIZING COUNTIES FOR BID PREFERENCE FOR
VETERAN-OWNED SMALL BUSINESSES**

Section 1. **[375.771] VETERAN-OWNED SMALL BUSINESS CONTRACTS.**

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Award" means the granting of a contract in accordance with all applicable laws and rules governing competitive bidding, except as otherwise provided in this section.

(c) "Contract" means an agreement entered into between a business entity and the county for procurement of goods and services including both technical and nontechnical goods and services, printing, and construction.

(d) "County board" or "board" has the meaning given in section 375.01.

(e) "County purchasing department" has the meaning given in section 375.72.

(f) "Director of purchasing" has the meaning given in section 375.74.

(g) "Subcontractor" means a business entity that enters into a legally binding agreement with another business entity that is a party to a contract as defined in paragraph (c).

(h) "Veteran" has the meaning given in section 197.447.

(i) "Veteran-owned small business" means a business designated under section 16C.16, subdivision 6a.

Subd. 2. Policy; purpose; director. (a) A county board may establish a program within the county in accordance with this section to provide a bid preference for awarding contracts to designated veteran-owned small businesses for the procurement of technical and nontechnical goods and services including, but not limited to, printing and construction, broadly defined to include all phases of the construction process.

(b) The purpose of this program is to facilitate the transition of veterans from military to civilian life, and to help compensate veterans for their sacrifices including, but not limited to, their sacrifice of health and time to the community, state, and nation during their military service, as well as to enhance economic development throughout Minnesota.

(c) The county board may direct the county director of purchasing, or other designated official within the county purchasing department, to administer this program in accordance with county policy established by the board.

Subd. 3. Small business set-asides. (a) The county director of purchasing may award up to a six percent preference in the amount bid for procurement of goods and services including, but not limited to, technical and nontechnical goods and services, printing, and construction to veteran-owned small businesses having their principal place of business in Minnesota.

(b) The board, as a condition of awarding a construction contract, may set goals that require the prime contractor to subcontract a portion of the contract to veteran-owned small businesses. The board must establish a procedure for granting waivers from the subcontracting requirement when qualified veteran-owned small businesses are not reasonably available. The board may establish financial incentives for prime contractors who exceed the goals for use of veteran-owned small business subcontractors and financial penalties for prime contractors who fail to meet goals under this paragraph. The

subcontracting requirements of this paragraph do not apply to prime contractors who are veteran-owned small businesses.

Subd. 4. **Awards to small businesses.** At least 75 percent of subcontracts awarded to veteran-owned small businesses must be performed by the business to which the subcontract is awarded or another veteran-owned small business.

Subd. 5. **Awards, limitations.** Contracts awarded under this section are subject to all limitations adopted by the board.

Subd. 6. **Recourse to other businesses.** If the director is unable to award a contract under subdivisions 3 and 4, the award may be placed under normal solicitation and award statutes and rules.

Subd. 7. **Noncompetitive bids.** The board is encouraged to purchase from veteran-owned small businesses designated under section 16C.16, subdivision 6a, when making purchases that are not subject to competitive bidding procedures.

Subd. 8. **Report to board.** The county treasurer shall report to the board on compliance with this section. The information must be reported at the time and in the manner requested by the board.

EFFECTIVE DATE. This section is effective July 1, 2012, for contracts awarded by counties on or after that date.

ARTICLE 5

AMENDED PAY DIFFERENTIAL LAW FOR SCHOOL DISTRICT EMPLOYEES WHO ARE MEMBERS OF THE NATIONAL GUARD OR RESERVES

Section 1. Minnesota Statutes 2010, section 471.975, is amended to read:

471.975 MAY PAY DIFFERENTIAL OF RESERVE ON ACTIVE DUTY.

(a) Except as provided in paragraph (b), a statutory or home rule charter city, county, town, or other political subdivision may pay to each eligible member of the National Guard or other reserve component of the armed forces of the United States an amount equal to the difference between the member's base active duty military salary and the salary the member would be paid as an active political subdivision employee, including any adjustments the member would have received if not on leave of absence. This payment may be made only to a person whose base active duty military salary is less than the salary the person would be paid as an active political subdivision employee. Back pay authorized by this section may be paid in a lump sum. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve.

(b) Subject to the limits under paragraph (g), each school district shall pay to each eligible member of the National Guard or other reserve component of the armed forces of the United States an amount equal to the difference between the member's base active duty military salary and the salary the member would be paid as an active school district employee, including any adjustments the member would have received if not on leave of absence. The pay differential must be based on a comparison between the member's daily base rate of active duty pay, calculated by dividing the member's base military monthly salary by the number of paid days in the month, and the member's daily rate of pay for the member's school district salary, calculated by dividing the member's total school district salary by the number of contract days. The member's salary as a school district employee must include the member's basic salary and any additional salary the member earns from the school district for cocurricular and extracurricular activities. The differential payment under this paragraph must be the difference between the daily base rates of military pay times the number of school district contract days the member misses because of military active duty. This payment may be made only to a person whose daily base rate of active duty pay is less than the person's daily rate of pay as an active school district employee. Payments may be made at the intervals at which the member received pay as a school district employee. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve.

(c) An eligible member of the reserve components of the armed forces of the United States is a reservist or National Guard member who was an employee of a political subdivision at the time the member reported for active service on or after May 29, 2003, or who is on active service on May 29, 2003.

(d) Except as provided in paragraph (e) and elsewhere in Minnesota Statutes, a statutory or home rule charter city, county, town, or other political subdivision has total discretion regarding employee benefit continuation for a member who reports for active service and the terms and conditions of any benefit.

(e) A school district must continue the employee's enrollment in health and dental coverage, and the employer contribution toward that coverage, until the employee is covered by health and dental coverage provided by the armed forces. If the employee had elected dependent coverage for health or dental coverage as of the time that the employee reported for active service, a school district must offer the employee the option to continue the dependent coverage at the employee's own expense. A school district must permit the employee to continue participating in any pretax account in which the employee

participated when the employee reported for active service, to the extent of employee pay available for that purpose.

(f) For purposes of this section, "active service" has the meaning given in section 190.05, subdivision 5, but excludes service performed exclusively for purposes of:

(1) basic combat training, advanced individual training, annual training, and periodic inactive duty training;

(2) special training periodically made available to reserve members; and

(3) service performed in accordance with section 190.08, subdivision 3.

~~(g) A school district making payments under paragraph (b) shall place a sum equal to any difference between the amount of salary that would have been paid to the employee who is receiving the payments and the amount of salary being paid to substitutes for that employee into a special fund that must be used to pay or partially pay the deployed employee's payments under paragraph (b). A school district is required to pay only this amount to the deployed school district employee. When an employee of a school district who as a member of the National Guard or any other reserve unit of the United States armed forces, reports for active service as defined in section 190.05, subdivision 5, the district must place into a special service members' aggregate salary savings account a sum equal to the positive difference between the amount of salary the district would have paid to the employee and the amount of salary paid to any substitute for the employee's position during the employee's leave for military service. The district must use the combined proceeds in the account only to fully pay the salary differentials of all eligible deployed employees in the district, as determined under paragraph (b). A school district's obligation to make payments under this section is limited to the amount of money in the account in any fiscal year.~~

EFFECTIVE DATE. This section is effective July 1, 2012, for school district employees serving in active military duty on or after that date.

APPENDIX
Article locations in S1597-3

	INCREASED CREDITS FOR VETERANS IN CIVIL SERVICE EMPLOYMENT AND EMPHASIS ON RECRUITMENT FOR ARTICLE 1 STATE AGENCY EMPLOYMENT	Page.Ln 1.14
	PREFERENCE FOR VETERAN-OWNED SMALL BUSINESSES ARTICLE 2 IN STATE PROCUREMENT	Page.Ln 2.22
	PREFERENCE FOR VETERAN-OWNED SMALL BUSINESSES ARTICLE 3 IN STATE TRANSPORTATION CONSTRUCTION CONTRACTS ..	Page.Ln 3.11
	AUTHORIZING COUNTIES FOR BID PREFERENCE FOR ARTICLE 4 VETERAN-OWNED SMALL BUSINESSES	Page.Ln 5.23
	AMENDED PAY DIFFERENTIAL LAW FOR SCHOOL DISTRICT EMPLOYEES WHO ARE MEMBERS OF THE NATIONAL ARTICLE 5 GUARD OR RESERVES	Page.Ln 7.19