A bill for an act

relating to veterans; changing the small business set-aside program for veteran-owned small businesses; authorizing county set-aside programs for veteran-owned small businesses; changing reporting requirements; amending Minnesota Statutes 2010, section 161.321, subdivisions 2, 5, 8, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 375.

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

ARTICLE 1

CONSTRUCTION CONTRACTING FOR VETERAN-OWNED SMALL BUSINESSES

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

Subd. 2. **Small <u>targeted group</u> 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, 2011.

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. 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 14 stages of the construction process as enumerated periodically by the commissioner for the department.

(c) The commissioner may not specify or award contracts for veteran-owned small businesses in any year that are fewer in number or less in aggregate total value than the number and value of contracts that the commissioner specifies and awards for small targeted group businesses.

(d) 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 must establish financial incentives 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.

(e) The commissioner must 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, 2011.

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, 2011.

Sec. 4. Minnesota Statutes 2010, section 161.321, subdivision 8, is amended to read:

Subd. 8. **Report ~~by commissioner~~ to the legislature.** (a) By January 15 of each year, the commissioner of transportation shall report to ~~the commissioner of administration on~~ the ranking minority members of the senate and house of representatives committees having general responsibility for transportation, state government, and veterans affairs, on the commissioner's implementation of and compliance with this section. ~~The information must be reported at the time and in the manner requested by the commissioner.~~ This annual report must include, but is not limited to, the number and amounts of contracts offered for bid under subdivision 2a, as well as the number and amounts of contracts awarded under subdivision 2a, as compared with subdivision 2, for construction work, and for goods and services separately. The report must be sufficiently detailed to enable the legislature to determine whether veteran-owned small businesses are participating in the Minnesota Department of Transportation contracting process in proportion to their presence in Minnesota, relative to both small targeted group businesses and other small businesses located in Minnesota.

(b) The report by the commissioner must also describe and discuss any perceived impediments or barriers, whether statutory or otherwise, to full and proportional participation in this bid preference program by veteran-owned small businesses, including specific recommendations for ameliorating those barriers.

EFFECTIVE DATE. This section is effective for contracts let on or after July 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 161.321, is amended by adding a subdivision to read:

Subd. 9. **Purpose.** The purpose of the state contracting bid preference program for veteran-owned small businesses 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, 2011.

Sec. 6. **RULEMAKING.**

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.

EFFECTIVE DATE. This section is effective July 1, 2011.

ARTICLE 2

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, and 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 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 2 and 3, 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, 2011, for contracts awarded by counties on or after that date.

APPENDIX
Article locations in 11-2867

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