

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1597

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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		Special Order: Amended Third reading Passed

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 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; 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; 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 professional and technical 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 and technical services.

(c) The commissioner must strive to ensure that contracts under this subdivision will be awarded on a proportional basis with contracts awarded under subdivision 2.

(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, except when prohibited by federal law or rule as a condition of receiving federal funds. 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, as well as financial penalties for prime contractors who have not been granted a waiver and 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 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.

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.

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.

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

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

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

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

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

APPENDIX
Article locations in S1597-2

ARTICLE 1	INCREASED CREDITS FOR VETERANS IN CIVIL SERVICE EMPLOYMENT AND EMPHASIS ON RECRUITMENT FOR STATE AGENCY EMPLOYMENT	Page.Ln 1.12
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