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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1745

02/15/2023 Authored by Robbins; Nash; Anderson, P. E., and Scott
The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to state government; establishing the position of director of grants
1.3 management and oversight within the Department of Administration; requiring
1.4 standards related to grantmaking and grants management practices; requiring
1.5 reports; amending Minnesota Statutes 2022, sections 16B.97, subdivisions 2, 3,
1.6 4, 5; 16B.98, subdivisions 4, 5, 6, 7.

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

1.8 Section 1. Minnesota Statutes 2022, section 16B.97, subdivision 2, is amended to read:

1.9 Subd. 2. Grants governance. The commissioner must appoint a director of grants
1.10 management and oversight. At a minimum, the director must have demonstrated professional
1.11 experience in auditing and legal compliance related to grantmaking within a large, complex
1.12 organization. The commissioner director shall provide leadership and direction for oversee
1.13 the implementation of law and policy related to grants management in Minnesota in order.
1.14 The director's responsibilities are to: (1) foster more consistent, streamlined interaction
1.15 between executive agencies, funders, and grantees that will enhance access to grant
1.16 opportunities and information; (2) ensure compliance with laws relating to grantmaking
1.17 and the grants management process; and lead to greater program accountability and
1.18 transparency (3) be a resource in ensuring public accountability and transparency in grant
1.19 programs administered by executive agencies. The commissioner director has the duties
1.20 and powers stated in this section and section 16B.98. An executive agency must do what
1.21 the commissioner director requires under this section.

1.22 Sec. 2. Minnesota Statutes 2022, section 16B.97, subdivision 3, is amended to read:

1.23 Subd. 3. Discretionary powers. The commissioner director has the authority to:

- 2.1 (1) review grants management practices and propose policy and procedure improvements
 2.2 to the governor, legislature, executive agencies, and the federal government;
- 2.3 (2) sponsor, support, and facilitate innovative and collaborative grants management
 2.4 projects with public and private organizations;
- 2.5 (3) review, recommend, and implement alternative strategies for grants management;
- 2.6 (4) collect and disseminate information, issue reports relating to grants management,
 2.7 and sponsor and conduct conferences and studies; and
- 2.8 (5) participate in conferences and other appropriate activities related to grants
 2.9 management issues.

2.10 Sec. 3. Minnesota Statutes 2022, section 16B.97, subdivision 4, is amended to read:

2.11 Subd. 4. **Duties.** (a) The ~~commissioner~~ director shall:

- 2.12 (1) create general grants management policies and procedures that are applicable to all
 2.13 executive agencies. The ~~commissioner~~ director may approve exceptions to these policies
 2.14 and procedures for particular grant programs. Exceptions shall expire or be renewed after
 2.15 five years. Executive agencies shall retain management of individual grants programs,
 2.16 provided that the director determines the executive agency is compliant with the requirements
 2.17 of law related to grantmaking and grants management in administering its programs;
- 2.18 (2) provide a central point of contact concerning statewide grants management policies
 2.19 ~~and~~, procedures, and requirements of law;
- 2.20 (3) serve as a resource to executive agencies in such areas as training, evaluation,
 2.21 collaboration, and best practices in grants management;
- 2.22 (4) ensure grants management needs are considered in the development, upgrade, and
 2.23 use of statewide administrative systems and leverage existing technology wherever possible;
- 2.24 (5) oversee and approve future professional and technical service contracts and other
 2.25 information technology spending related to executive agency grants management activities,
 2.26 including verifying, in consultation with the legislative auditor, that information technology
 2.27 systems used by executive branch agencies in administering grant programs meet the
 2.28 requirements of this section and section 16B.98;
- 2.29 (6) provide a central point of contact for comments about executive agencies violating
 2.30 statewide grants governance policies and about fraud and waste in grants processes;

3.1 (7) forward received comments to the ~~appropriate agency~~ legislative auditor for further
3.2 action, and may follow up as necessary;

3.3 (8) provide a single listing of all available executive agency competitive grant
3.4 opportunities and resulting grant recipients;

3.5 (9) ~~selectively~~ review development and implementation of executive agency grants,
3.6 policies, and practices; ~~and~~

3.7 (10) ~~selectively~~ review executive agency compliance with best practices;

3.8 (11) in consultation with the legislative auditor, review executive agency compliance
3.9 with the requirements of law related to grantmaking and grants management;

3.10 (12) review and approve or disapprove a grantee's request for waivers, deadline
3.11 extensions, or other variances from the terms of a written grant agreement; and

3.12 (13) in consultation with the legislative auditor, provide a standardized form that granting
3.13 agencies may use to submit oversight reports to the governor and legislature regarding grant
3.14 activities, including details related to the number of grants awarded by the agency, how
3.15 each grant is being used, appropriate statistics demonstrating how the use of the grant
3.16 benefits the public, and specific details on the use of any funds retained by the granting
3.17 agency for costs associated with administering the grant.

3.18 (b) No later than July 1, 2024, the ~~commissioner~~ may ~~director~~ must determine ~~that~~
3.19 whether it is cost-effective for agencies to develop and use shared grants management
3.20 technology systems. This system would be governed under section 16E.01, subdivision 3,
3.21 paragraph (b). If the director determines that a shared grants management technology system
3.22 would not be cost-effective, the director must propose an alternative enterprise-wide reporting
3.23 system for grants management that allows for public accountability, transparency, and
3.24 information sharing across all agencies. To the extent practical, the director must work with
3.25 the commissioner of management and budget to build appropriate grants management
3.26 functionality into any new statewide accounting system developed for use by agencies.

3.27 Sec. 4. Minnesota Statutes 2022, section 16B.97, subdivision 5, is amended to read:

3.28 Subd. 5. **Data classification.** Data maintained by the ~~commissioner~~ director that identify
3.29 a person providing comments to the commissioner under subdivision 4, paragraph (a),
3.30 clauses (6) and (7), are private and nonpublic data but may be shared with the executive
3.31 agency that is the subject of the comments.

4.1 Sec. 5. Minnesota Statutes 2022, section 16B.98, subdivision 4, is amended to read:

4.2 Subd. 4. **Reporting of violations.** A state employee who discovers evidence of violation
4.3 of laws or rules governing grants ~~is encouraged to~~ must report the violation or suspected
4.4 violation to the employee's supervisor, the ~~commissioner or the commissioner's designee~~
4.5 director of grants management and oversight, or the legislative auditor. The legislative
4.6 auditor shall report to the Legislative Audit Commission if there are multiple complaints
4.7 about the same agency. The auditor's report to the Legislative Audit Commission under this
4.8 section must disclose only the number and type of violations alleged. An employee making
4.9 a good faith report under this section has the protections provided for under section 181.932,
4.10 prohibiting the employer from discriminating against the employee.

4.11 Sec. 6. Minnesota Statutes 2022, section 16B.98, subdivision 5, is amended to read:

4.12 Subd. 5. **Creation and validity of grant agreements.** (a) A grant agreement is not valid
4.13 and the state is not bound by the grant unless:

4.14 (1) the grant has been executed by the head of the agency or a delegate who is party to
4.15 the grant;

4.16 (2) the accounting system shows an encumbrance for the amount of the grant in
4.17 accordance with policy approved by the commissioner except as provided in subdivision
4.18 11; and

4.19 (3) the grant agreement includes an effective date that references either section 16C.05,
4.20 subdivision 2, or 16B.98, subdivisions 5 and 7, as determined by the granting agency.

4.21 (b) The combined grant agreement and amendments must not exceed five years without
4.22 specific, written approval by the commissioner according to established policy, procedures,
4.23 and standards, or unless the commissioner determines that a longer duration is in the best
4.24 interest of the state.

4.25 (c) A fully executed copy of the grant agreement with all amendments and other required
4.26 records relating to the grant must be kept on file at the granting agency for a time equal to
4.27 that required of grantees in subdivision 8.

4.28 (d) Grant agreements must comply with policies established by the ~~commissioner~~ director
4.29 of grants management and oversight for minimum grant agreement standards and practices.

4.30 (e) The attorney general ~~may~~ must periodically review and evaluate a sample of state
4.31 agency grants to ensure compliance with applicable laws.

5.1 Sec. 7. Minnesota Statutes 2022, section 16B.98, subdivision 6, is amended to read:

5.2 Subd. 6. **Grant administration.** A granting agency shall diligently administer and
5.3 monitor any grant it has entered into. At a minimum, a granting agency must:

5.4 (1) administer a grant utilizing a grants management technology system approved by
5.5 the director of grants management and oversight;

5.6 (2) require each grantee to identify all grants the grantee has received or applied to
5.7 receive from an executive agency;

5.8 (3) independently determine whether the grantee has previously received grants or
5.9 entered contracts with a state agency, record that information in the grants management
5.10 technology system, and review any outcomes reported by a state agency related to a grantee's
5.11 performance under a prior grant or contract;

5.12 (4) identify a program manager for each grant and identify the program manager in the
5.13 grants management technology system;

5.14 (5) collect appropriate documentation, as determined by the director of grants management
5.15 and oversight, sufficient to verify that providing a grant to a proposed grantee is reasonable
5.16 and appropriate given the grantee's level of financial health and sophistication, including
5.17 at a minimum, an audit report or IRS form 990, and the proposed grantee's balance sheets
5.18 from the most recent fiscal year or, if the proposed grant has a value of \$500,000 or more,
5.19 the proposed grantee's balance sheets covering the most recent five fiscal years, and record
5.20 that information in the grants management technology system;

5.21 (6) conduct either an unannounced or scheduled in-person meeting with a grantee, at
5.22 the grantee's offices or worksite, to verify that the grant is being used for its intended
5.23 purposes;

5.24 (7) submit to the director of grants management and oversight for approval any request
5.25 made by a grantee for a waiver, deadline extension, or other variance from the terms of a
5.26 written grant agreement;

5.27 (8) ensure that the job description of any employee of an agency with responsibilities
5.28 related to grantmaking or grants management includes those duties, that the employee is
5.29 properly and regularly trained on these duties, and that these duties are incorporated in the
5.30 annual review of the employee's job performance, and where appropriate, remedial action
5.31 is taken in the event an employee fails to adequately fulfill the duties;

5.32 (9) subject to review and approval by the director of grants management and oversight,
5.33 in consultation with the legislative auditor, establish internal controls for conducting ongoing

6.1 oversight of grants administered by the agency, along with policies and procedures for
6.2 remedial action when these controls are not followed; and

6.3 (10) using the standardized form established by the director of grants management and
6.4 oversight, submit an annual report to the governor and the legislative committees with
6.5 jurisdiction over the agency's budget detailing the agency's grant activity in the prior year.

6.6 Sec. 8. Minnesota Statutes 2022, section 16B.98, subdivision 7, is amended to read:

6.7 Subd. 7. **Grant payments.** (a) Payments to the grantee may not be issued until the grant
6.8 agreement is fully executed. Encumbrances for grants issued by June 30 may be certified
6.9 for a period of one year beyond the year in which the funds were originally appropriated as
6.10 provided by section 16A.28, subdivision 6.

6.11 (b) An executive agency must withhold payments on a grant if a grantee has not submitted
6.12 each required progress report, financial reconciliation, or other report required by the terms
6.13 of the grant agreement, or if the executive agency determines that the grantee no longer
6.14 qualifies to receive the grant.

6.15 (c) An executive agency must not make final payment on a grant until it has received
6.16 all annual financial reconciliations required by the terms of the grant agreement, in addition
6.17 to a comprehensive reconciliation of all expenses, reimbursements, and other uses of the
6.18 grant funds that demonstrate to the granting agency that the grantee is prepared to receive
6.19 a final grant payment on the grant.

6.20 Sec. 9. **DIRECTOR OF GRANTS MANAGEMENT AND OVERSIGHT;**
6.21 **TRANSITION.**

6.22 The commissioner must appoint a director of grants management and oversight as
6.23 required by this act no later than October 1, 2023. The commissioner must engage with the
6.24 public and private sector to recruit highly qualified applicants and make a final appointment
6.25 through an open and competitive process. The appointed director's responsibilities must
6.26 include the work and mission of the existing Office of Grants Management, in addition to
6.27 the new duties prescribed by this act.