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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2000

03/04/2019 Authored by Lee, Moran, Vang, Dehn, Murphy and others
The bill was read for the first time and referred to the Committee on Labor
03/21/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to human rights; changing requirements for certain contracts and certificate
1.3 of compliance; amending Minnesota Statutes 2018, sections 363A.36, subdivisions
1.4 1, 4; 363A.44, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2018, section 363A.36, subdivision 1, is amended to read:

1.7 Subdivision 1. Scope of application. (a) For all contracts for goods and services in
1.8 excess of \$100,000, no department or agency of the state or public officer or agency subject
1.9 to section 16A.695 shall accept any bid or proposal for a contract or agreement from any
1.10 business having more than 40 full-time employees within this state on a single working day
1.11 during the previous 12 months, unless the commissioner is in receipt of the business'
1.12 affirmative action plan for the employment of minority persons, women, and qualified
1.13 disabled individuals. No department or agency of the state shall execute any such contract
1.14 or agreement until the affirmative action plan has been approved by the commissioner.
1.15 Receipt of a certificate of compliance issued by the commissioner shall signify that a firm
1.16 or business has an affirmative action plan that has been approved by the commissioner. A
1.17 certificate shall be valid for a period of four years. A municipality as defined in section
1.18 466.01, subdivision 1, that receives state money for any reason is encouraged to prepare
1.19 and implement an affirmative action plan for the employment of minority persons, women,
1.20 and the qualified disabled and submit the plan to the commissioner.

1.21 (b) This paragraph applies to a contract for goods or services in excess of \$100,000 to
1.22 be entered into between a department or agency of the state or public officer or agency
1.23 subject to section 16A.695, and a business that is not subject to paragraph (a), but that has

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

2.7 (c) This section does not apply to contracts entered into by the State Board of Investment  
2.8 for investment options under section 356.645.

2.9 (d) The commissioner shall issue a certificate of compliance or notice of denial within  
2.10 15 days of the application submitted by the business or firm.

2.11 Sec. 2. Minnesota Statutes 2018, section 363A.36, subdivision 4, is amended to read:

2.12 Subd. 4. **Revocation of contract.** A contract awarded by a department or agency of the  
2.13 state, or a public officer or agency subject to section 16A.695, may be terminated or abridged  
2.14 by the department or agency, or public officer or agency subject to section 16A.695, because  
2.15 of suspension or revocation of a certificate based upon a contractor's failure to implement  
2.16 or make a good faith effort to implement an affirmative action plan approved by the  
2.17 commissioner under this section. If a contract is awarded to a person who does not have a  
2.18 contract compliance certificate required under subdivision 1, the commissioner may void  
2.19 the contract on behalf of the state.

2.20 Sec. 3. Minnesota Statutes 2018, section 363A.44, subdivision 1, is amended to read:

2.21 Subdivision 1. **Scope.** (a) No department, agency of the state, the Metropolitan Council,  
2.22 ~~or~~ an agency subject to section 473.143, subdivision 1, or a public officer or agency subject  
2.23 to section 16A.695, shall execute a contract for goods or services or an agreement for goods  
2.24 or services in excess of \$500,000 with a business that has 40 or more full-time employees  
2.25 in this state or a state where the business has its primary place of business on a single day  
2.26 during the prior 12 months, unless the business has an equal pay certificate or it has certified  
2.27 in writing that it is exempt. A certificate is valid for four years.

2.28 (b) This section does not apply to a business with respect to a specific contract if the  
2.29 commissioner of administration determines that application of this section would cause  
2.30 undue hardship to the contracting entity. This section does not apply to a contract to provide  
2.31 goods and services to individuals under chapters 43A, 62A, 62C, 62D, 62E, 256B, 256I,  
2.32 256L, and 268A, with a business that has a license, certification, registration, provider  
2.33 agreement, or provider enrollment contract that is prerequisite to providing those goods and

- 3.1 services. This section does not apply to contracts entered into by the State Board of
- 3.2 Investment for investment options under section 352.965, subdivision 4.