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(SENATE AUTHORS: CARLSON)

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Introduction and first reading
Referred to State Government Finance and Policy and Elections

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to state government; modifying appointments to the Minnesota Assistive
1.3 Technology Advisory Council; codifying the Office of Equity in Procurement;
1.4 changing who may certify a small business for procurements; expanding master
1.5 contract processes; amending Minnesota Statutes 2016, sections 16B.055,
1.6 subdivision 1; 16C.05, subdivision 2; 16C.19; 16C.36; proposing coding for new
1.7 law in Minnesota Statutes, chapter 16C.

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

1.9 Section 1. Minnesota Statutes 2016, section 16B.055, subdivision 1, is amended to read:

1.10 Subdivision 1. **Federal Assistive Technology Act.** (a) The Department of Administration
1.11 is designated as the lead agency to carry out all the responsibilities under the Assistive
1.12 Technology Act of 1998, as provided by Public Law 108-364, as amended. The Minnesota
1.13 Assistive Technology Advisory Council is established to fulfill the responsibilities required
1.14 by the Assistive Technology Act, as provided by Public Law 108-364, as amended. Because
1.15 the existence of this council is required by federal law, this council does not expire.

1.16 (b) Except as provided in paragraph (c), the governor shall appoint the membership of
1.17 the council as required by the Assistive Technology Act of 1998, as provided by Public
1.18 Law 108-364, as amended. After the governor has completed the appointments required by
1.19 this subdivision, the commissioner of administration, or the commissioner's designee, shall
1.20 convene the first meeting of the council following the appointments. Members shall serve
1.21 two-year terms commencing July 1 of each odd-numbered year, and receive the compensation
1.22 specified by the Assistive Technology Act of 1998, as provided by Public Law 108-364, as
1.23 amended. The members of the council shall select their chair at the first meeting following
1.24 their appointment.

2.1 (c) After consulting with the appropriate commissioner, the commissioner of
2.2 administration shall appoint a representative from:

2.3 (1) State Services for the Blind who has assistive technology expertise;

2.4 (2) vocational rehabilitation services who has assistive technology expertise;

2.5 (3) the workforce investment board; and

2.6 (4) the Department of Education who has assistive technology expertise.

2.7 Sec. 2. Minnesota Statutes 2016, section 16C.05, subdivision 2, is amended to read:

2.8 Subd. 2. **Creation and validity of contracts.** (a) A contract and amendments are not
2.9 valid and the state is not bound by them and no agency, without the prior written approval
2.10 of the commissioner granted pursuant to subdivision 2a, may authorize work to begin on
2.11 them unless:

2.12 (1) they have first been executed by the head of the agency or a delegate who is a party
2.13 to the contract;

2.14 (2) they have been approved by the commissioner; and

2.15 (3) the accounting system shows an encumbrance for the amount of the contract liability,
2.16 except as allowed by policy approved by the commissioner and commissioner of management
2.17 and budget for routine, low-dollar procurements and section 16B.98, subdivision 11.

2.18 (b) Grants, interagency agreements, purchase orders, work orders, and annual plans need
2.19 not, in the discretion of the commissioner and attorney general, require the signature of the
2.20 commissioner and/or the attorney general. A signature is not required for work orders and
2.21 amendments to work orders related to Department of Transportation contracts. Bond purchase
2.22 agreements by the Minnesota Public Facilities Authority do not require the approval of the
2.23 commissioner.

2.24 (c) Amendments to contracts must entail tasks that are substantially similar to those in
2.25 the original contract or involve tasks that are so closely related to the original contract that
2.26 it would be impracticable for a different contractor to perform the work. The commissioner
2.27 or an agency official to whom the commissioner has delegated contracting authority under
2.28 section 16C.03, subdivision 16, must determine that an amendment would serve the interest
2.29 of the state better than a new contract and would cost no more.

2.30 (d) A record must be kept of all responses to solicitations, including names of bidders
2.31 and amounts of bids or proposals. A fully executed copy of every contract, amendments to
2.32 the contract, and performance evaluations relating to the contract must be kept on file at

3.1 the contracting agency for a time equal to that specified for contract vendors and other
 3.2 parties in subdivision 5. These records are open to public inspection, subject to section
 3.3 13.591 and other applicable law.

3.4 (e) The attorney general must periodically review and evaluate a sample of state agency
 3.5 contracts to ensure compliance with laws.

3.6 (f) Before executing a contract or license agreement involving intellectual property
 3.7 developed or acquired by the state, a state agency shall seek review and comment from the
 3.8 ~~attorney general~~ commissioner on the terms and conditions of the contract or agreement.

3.9 **Sec. 3. [16C.061] OFFICE OF EQUITY IN PROCUREMENT.**

3.10 (a) The Office of Equity in Procurement shall:

3.11 (1) assist in providing greater equity in state contracting and construction;

3.12 (2) promote opportunities to do business with the state; and

3.13 (3) provide assistance to small businesses owned by women, minorities, people with
 3.14 substantial physical disabilities, and veterans in obtaining state contracts. The office shall
 3.15 promote equal contracting opportunities in the state. The office shall further the state goal
 3.16 that all businesses have the ability to compete for state contracts by providing assistance
 3.17 related to business certification under section 16C.19 and how to respond to state solicitations,
 3.18 outreach, and accountability on public purchasing for small businesses owned by women,
 3.19 minorities, people with substantial physical disabilities, and veterans, and small businesses
 3.20 located in economically disadvantaged areas.

3.21 (b) The office shall carry out the duties assigned by the commissioner of administration.

3.22 Sec. 4. Minnesota Statutes 2016, section 16C.19, is amended to read:

3.23 **16C.19 ELIGIBILITY; RULES.**

3.24 (a) A small business wishing to participate in the programs under section 16C.16,
 3.25 subdivisions 4 to 7, must be certified by the commissioner or by a nationally recognized
 3.26 certifying organization authorized by the commissioner, if the certification requirements
 3.27 are substantially the same as those adopted under the rules authorized in this section and
 3.28 the business meets the requirements in section 16C.16, subdivision 2. The commissioner
 3.29 shall adopt by rule standards and procedures for certifying that small targeted group
 3.30 businesses, small businesses located in economically disadvantaged areas, and veteran-owned
 3.31 small businesses are eligible to participate under the requirements of sections 16C.16 to

4.1 16C.21. The commissioner shall adopt by rule standards and procedures for hearing appeals
4.2 and grievances and other rules necessary to carry out the duties set forth in sections 16C.16
4.3 to 16C.21.

4.4 (b) The commissioner may make rules which exclude or limit the participation of
4.5 nonmanufacturing business, including third-party lessors, brokers, franchises, jobbers,
4.6 manufacturers' representatives, and others from eligibility under sections 16C.16 to 16C.21.

4.7 (c) The commissioner may make rules that set time limits and other eligibility limits on
4.8 business participation in programs under sections 16C.16 to 16C.21.

4.9 (d) Notwithstanding paragraph (a), for purposes of sections 16C.16 to 16C.21, a
4.10 veteran-owned small business, the principal place of business of which is in Minnesota, is
4.11 certified if:

4.12 (1) it has been verified by the United States Department of Veterans Affairs as being
4.13 either a veteran-owned small business or a service-disabled veteran-owned small business,
4.14 in accordance with Public Law 109-461 and Code of Federal Regulations, title 38, part 74;
4.15 or

4.16 (2) the veteran-owned small business supplies the commissioner with proof that the
4.17 small business is majority-owned and operated by:

4.18 (i) a veteran as defined in section 197.447; or

4.19 (ii) a veteran with a service-connected disability, as determined at any time by the United
4.20 States Department of Veterans Affairs.

4.21 (e) Until rules are adopted pursuant to paragraph (a) for the purpose of certifying
4.22 veteran-owned small businesses, the provisions of Minnesota Rules, part 1230.1700, may
4.23 be read to include veteran-owned small businesses. In addition to the documentation required
4.24 in Minnesota Rules, part 1230.1700, the veteran owner must have been discharged under
4.25 honorable conditions from active service, as indicated by the veteran owner's most current
4.26 United States Department of Defense form DD-214.

4.27 (f) Notwithstanding paragraph (a), for purposes of sections 16C.16 to 16C.21, a minority-
4.28 or woman-owned small business, the principal place of business of which is in Minnesota,
4.29 is certified if it has been certified by the Minnesota unified certification program under the
4.30 provisions of Code of Federal Regulations, title 49, part 26.

4.31 (g) The commissioner may adopt rules to implement the programs under section 16C.16,
4.32 subdivisions 4 to 7, using the expedited rulemaking process in section 14.389.

5.1 Sec. 5. Minnesota Statutes 2016, section 16C.36, is amended to read:

5.2 **16C.36 REORGANIZATION CONTINUOUS IMPROVEMENT SERVICES**
5.3 **UNDER MASTER CONTRACT.**

5.4 The commissioner of administration must make available under a one or more master
5.5 contract ~~program~~ programs a list of eligible contractors who can assist state agencies in
5.6 using ~~data analytics~~ continuous improvement methodologies to:

5.7 (1) accomplish agency reorganization along service rather than functional lines in order
5.8 to provide more efficient and effective service; and

5.9 (2) bring about internal reorganization of management functions in order to flatten the
5.10 organizational structure by requiring that decisions are made closer to the service needed,
5.11 eliminating redundancies, and optimizing the span of control ratios to public and private
5.12 sector industry benchmarks. For purposes of this section, "continuous improvement
5.13 methodologies" may include the use of data analytics, LEAN, or other tools to improve the
5.14 efficiency and effectiveness of agency operations.

5.15 ~~The commissioner of administration must report to the legislature by January 15, 2013,~~
5.16 ~~and January 15, 2014, on state agency use of eligible contractors under this section, and on~~
5.17 ~~improvements in efficiency and effectiveness, including the contract oversight process, of~~
5.18 ~~state services as a result of services provided by contractors.~~