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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 805

01/25/2023

Authored by Quam

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 contracts; permitting uncollectible judgments against prime

1.3 contractors to be paid from contract retainage; requiring direct payments to

1.4 subcontractors under certain circumstances; amending Minnesota Statutes 2022,

1.5 section 16A.1245.

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

1.7 Section 1. Minnesota Statutes 2022, section 16A.1245, is amended to read:

1.8 **16A.1245 PROMPT PAYMENT TO SUBCONTRACTORS.**

1.9 (a) Each state agency contract must require the prime contractor to pay any subcontractor

1.10 within ten days of the prime contractor's receipt of payment from the state for undisputed

1.11 services provided by the subcontractor. The contract must require the prime contractor to

1.12 pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any

1.13 undisputed amount not paid on time to the subcontractor. The minimum monthly interest

1.14 penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of

1.15 less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor.

1.16 A subcontractor who prevails in a civil action to collect interest penalties from a prime

1.17 contractor must be awarded its costs and disbursements, including attorney's fees, incurred

1.18 in bringing the action. If the judgment is uncollectible because the prime contractor has

1.19 gone out of business or declared bankruptcy, and the state agency has contract retainage

1.20 funds, the state agency is authorized to pay a subcontractor who prevailed, up to the principal

1.21 amount of the work performed by the subcontractor, from the retainage. If the retainage is

1.22 insufficient to pay one or more subcontractors, the state agency is authorized to dispense

1.23 pro rata shares of the retainage to subcontractors, based on the principal amounts due and

1.24 owing.

2.1 (b) If a state agency does not require a performance and payment bond, letter of credit,
2.2 or other financial mechanism to assure that a prime contractor will pay subcontractors, the
2.3 state agency must pay all subcontractors directly during the term of the contract, upon
2.4 satisfactory completion of work under the contract.

2.5 **EFFECTIVE DATE.** This section is effective for contracts entered into on or after July
2.6 1, 2023.