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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3109**

03/14/2016 Authored by Dettmer, Johnson, S., and Dehn, R.,

The bill was read for the first time and referred to the Veterans Affairs Division

04/06/2016 Adoption of Report: Amended and re-referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to state government; changing provisions for the small business
1.3 procurement program; amending Minnesota Statutes 2014, sections 16C.10,
1.4 subdivision 6; 16C.16, subdivisions 6, 7, 11, by adding a subdivision; Minnesota
1.5 Statutes 2015 Supplement, section 16C.16, subdivision 6a.

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

1.7 Section 1. Minnesota Statutes 2014, section 16C.10, subdivision 6, is amended to read:
1.8 Subd. 6. **Expenditures under specified amounts.** A competitive solicitation
1.9 process described in this chapter is not required for the acquisition of goods, services,
1.10 construction, and utilities in an amount of \$5,000 or less or as authorized by section
1.11 16C.16, subdivisions 6, paragraph (b), 6a, paragraph (b), and 7, paragraph (b).

1.12 Sec. 2. Minnesota Statutes 2014, section 16C.16, subdivision 6, is amended to read:

1.13 Subd. 6. **Purchasing methods.** (a) The commissioner may award up to a six
1.14 percent preference ~~in the amount bid~~ for specified goods or services to small targeted
1.15 group businesses.

1.16 (b) The commissioner may award a contract for goods, services, or construction
1.17 directly to a small business or small targeted group business without going through a
1.18 competitive solicitation process up to a total contract award value, including extension
1.19 options, of \$25,000.

1.20 ~~(b)~~ (c) The commissioner may designate a purchase of goods or services for
1.21 award only to small businesses or small targeted group businesses if the commissioner
1.22 determines that at least three small businesses or small targeted group businesses are likely
1.23 to ~~bid~~ respond to a solicitation.

(e) (d) The commissioner, as a condition of awarding a construction contract or approving a contract for professional or technical services, may set goals that require the prime contractor to subcontract a portion of the contract to small businesses or small targeted group businesses. The commissioner must establish a procedure for granting waivers from the subcontracting requirement when qualified small businesses or small targeted group businesses are not reasonably available. The commissioner may establish financial incentives for prime contractors who exceed the goals for use of small business or small targeted group 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 small businesses or small targeted group businesses.

Sec. 3. Minnesota Statutes 2015 Supplement, 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 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 veterans.

(b) The commissioner may award a contract for goods, services, or construction directly to a veteran-owned small business without going through a competitive solicitation process up to a total contract award value, including extension options, of \$25,000.

(c) The commissioner may designate a purchase of goods or services for award only to a veteran-owned small business if the commissioner determines that at least three veteran-owned small businesses are likely to respond to a solicitation.

(d) The commissioner, as a condition of awarding a construction contract or approving a contract for professional or technical services, may set goals that require the prime contractor to subcontract a portion of the contract to a veteran-owned small business. 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 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.

~~(b)~~ (e) 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.

~~(e)~~ (f) Before the commissioner certifies that a small business is majority-owned and operated by a veteran, the commissioner of veterans affairs must verify that the owner of the small business is a veteran, as defined in section 197.447.

Sec. 4. Minnesota Statutes 2014, section 16C.16, subdivision 7, is amended to read:

Subd. 7. **Economically disadvantaged areas.** ~~(a) Except as otherwise provided in paragraph (b),~~ The commissioner may award up to a six percent preference in the amount bid on state procurement to small businesses located in an economically disadvantaged area.

~~(b) The commissioner may award up to a four percent preference in the amount bid on state construction to small businesses located in an economically disadvantaged area.~~

(b) The commissioner may award a contract for goods, services, or construction directly to a small business located in an economically disadvantaged area without going through a competitive solicitation process up to a total contract award value, including extension options, of \$25,000.

(c) The commissioner may designate a purchase of goods or services for award only to a small business located in an economically disadvantaged area if the commissioner determines that at least three small businesses located in an economically disadvantaged area are likely to respond to a solicitation.

(d) The commissioner, as a condition of awarding a construction contract or approving a contract for professional or technical services, may set goals that require the prime contractor to subcontract a portion of the contract to a small business located in an economically disadvantaged area. The commissioner must establish a procedure for granting waivers from the subcontracting requirement when qualified small businesses located in an economically disadvantaged area are not reasonably available. The commissioner may establish financial incentives for prime contractors who exceed the goals for use of subcontractors that are small businesses located in an economically disadvantaged area 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 businesses located in an economically disadvantaged area.

~~(e)~~ (e) A business is located in an economically disadvantaged area if:

(1) the owner resides in or the business is located in a county in which the median income for married couples is less than 70 percent of the state median income for married couples;

(2) the owner resides in or the business is located in an area designated a labor surplus area by the United States Department of Labor; or

(3) the business is a certified rehabilitation facility or extended employment provider as described in chapter 268A.

~~(d)~~ (f) The commissioner may designate one or more areas designated as targeted neighborhoods under section 469.202 or as border city enterprise zones under section 469.166 as economically disadvantaged areas for purposes of this subdivision if the commissioner determines that this designation would further the purposes of this section. If the owner of a small business resides or is employed in a designated area, the small business is eligible for any preference provided under this subdivision.

~~(e)~~ (g) The Department of Revenue shall gather data necessary to make the determinations required by paragraph ~~(e)~~ (e), clause (1), and shall annually certify counties that qualify under paragraph ~~(e)~~ (e), clause (1). An area designated a labor surplus area retains that status for 120 days after certified small businesses in the area are notified of the termination of the designation by the United States Department of Labor.

(h) If the commissioner implements any of the policies authorized in paragraph (b), (c), or (d), the commissioner must simultaneously implement policies that are at least as preferential to veteran-owned small businesses as provided for in subdivision 6a, paragraph (b), (c), or (d).

Sec. 5. Minnesota Statutes 2014, section 16C.16, is amended by adding a subdivision to read:

Subd. 7a. **Designated purchases and subcontractor goals.** (a) When designating purchases directly to a business in accordance with this section, the commissioner may also designate a purchase of goods or services directly to a group consisting of any combination of small businesses, small targeted group businesses, veteran-owned small businesses or small businesses located in an economically disadvantaged area if the commissioner determines that at least three businesses in two or more of the disadvantaged business categories are likely to respond.

(b) When establishing subcontractor goals under this section, the commissioner may set goals that require the prime contractor to subcontract a portion of the contract to any combination of a small business, small targeted group business, veteran-owned small business, or small business located in an economically disadvantaged area.

5.1 Sec. 6. Minnesota Statutes 2014, section 16C.16, subdivision 11, is amended to read:

5.2 Subd. 11. **Procurement procedures.** Except as specifically provided otherwise in
5.3 this section or another law, all laws and rules pertaining to solicitations, bid evaluations,
5.4 contract awards, and other procurement matters apply equally to procurements ~~designated~~
5.5 ~~for small businesses or small targeted group businesses~~ involving any small business,
5.6 small targeted group business, veteran-owned business, or small business located in an
5.7 economically disadvantaged area. ~~In the event of conflict with other rules, section 16C.15~~
5.8 ~~and rules adopted under it govern, if section 16C.15 applies. If it does not apply, sections~~
5.9 ~~16C.16 to 16C.21 and rules adopted under those sections govern.~~