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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **2522**

03/08/2016 Authored by Mullery and Johnson, S.,

The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to state government; modifying provisions governing purchasing
1.3 preferences for targeted group businesses; amending Minnesota Statutes 2014,
1.4 section 16C.16, subdivisions 5, 6.

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

1.6 Section 1. Minnesota Statutes 2014, section 16C.16, subdivision 5, is amended to read:

1.7 Subd. 5. **Designation of targeted groups.** (a) The commissioner of administration
1.8 shall periodically designate businesses that are majority owned and operated by women,
1.9 persons with a substantial physical disability, or specific minorities as targeted group
1.10 businesses within purchasing categories as determined by the commissioner. A group
1.11 may be targeted within a purchasing category if the commissioner determines there is a
1.12 statistical disparity between the percentage of purchasing from businesses owned by
1.13 group members and the representation of businesses owned by group members among all
1.14 businesses in the state in the purchasing category.

1.15 (b) In addition to designations under paragraph (a), an individual business may be
1.16 included as a targeted group business if the commissioner determines that inclusion is
1.17 necessary to remedy discrimination against the owner based on race, gender, or disability
1.18 in attempting to operate a business that would provide goods or services to public agencies.

1.19 (c) By January 1 of each odd-numbered year, the commissioner must review the
1.20 percentage of purchasing from each category of targeted group businesses in each
1.21 purchasing area for which a preference has been established. The review must cover
1.22 purchasing during the two-year period ending June 30 of the prior year.

(d) The designations of purchasing categories and businesses under paragraphs (a) and (b) are not rules for purposes of chapter 14, and are not subject to rulemaking procedures of that chapter.

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

Subd. 6. **Purchasing methods.** (a) The commissioner may award up to a six percent preference in the amount bid for specified goods or services to small targeted group businesses. If the commissioner determines under subdivision 5, paragraph (c), that purchasing preferences have been significantly less effective in eliminating disparities for one or more categories of small targeted group businesses than for other categories, the commissioner must award a larger preference to businesses in the categories in which the preference has been significantly less effective than to other targeted group businesses. The new preference amounts must be effective for contracts awarded on or after July 1 of the year in which the review under subdivision 5, paragraph (c), occurs.

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

(c) 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. If the commissioner determines under subdivision 5, paragraph (c), that purchasing preferences and subcontracting goals have been significantly less effective in eliminating disparities for one or more categories of small targeted group businesses than for other categories, the commissioner must set higher subcontracting goals for businesses in the categories in which the preferences and goals have been significantly less effective than for other targeted group businesses. The new goals must be effective for contracts awarded on or after July 1 of the year in which the review under subdivision 5, paragraph (c), occurs. 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.