

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 558

(SENATE AUTHORS: JOHNSON and Latz)

DATE	D-PG	OFFICIAL STATUS
01/28/2019	183	Introduction and first reading
		Referred to State Government Finance and Policy and Elections
02/28/2019	569a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act

1.2 relating to state government; specifying judicial jurisdiction for disputes regarding

1.3 certain public procurement actions; amending Minnesota Statutes 2018, section

1.4 471.345, subdivision 14; proposing coding for new law in Minnesota Statutes,

1.5 chapter 16C.

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

1.7 Section 1. **[16C.281] ORIGINAL JURISDICTION OF PUBLIC PROCUREMENT**

1.8 **ACTIONS.**

1.9 Subdivision 1. Original jurisdiction granted. (a) Original jurisdiction is granted to the

1.10 Minnesota District Courts over any action seeking legal, equitable, or declaratory relief

1.11 arising under or based upon the alleged violation of any Minnesota statute, regulation,

1.12 ordinance, or law governing or regarding public procurement requirements, public

1.13 procurement procedures, or the award of any public contract.

1.14 (b) The grant of original jurisdiction under paragraph (a) applies regardless of whether

1.15 a public entity involved or implicated in the action is alleged to have acted, or may be held

1.16 to have acted, in a judicial or quasi-judicial capacity.

1.17 (c) The grant of original jurisdiction under paragraph (a) does not: (1) alter the standard

1.18 of review to be applied by the Minnesota District Courts before which such actions are

1.19 heard; (2) alter the standard of review to be applied on appeal by the Minnesota Court of

1.20 Appeals or the Minnesota Supreme Court; (3) affect section 471.345, subdivision 14; (4)

1.21 affect the remedies available in actions under Minnesota law, including but not limited to

1.22 the availability or nonavailability of attorney fees awards and bid preparation costs; or (5)

2.1 affect the procedural or administrative steps, if any, set out by statute, rule, or procurement
2.2 procedure, that a party must comply with prior to initiating any such action.

2.3 Subd. 2. **Filing requirements.** (a) All actions by procurement process participants must
2.4 be filed prior to the date when the procurement contract at issue is fully executed, provided
2.5 the procurement process participant bringing the action has been afforded (1) reasonable
2.6 access to information necessary to prepare the action for filing, and (2) a reasonable
2.7 opportunity to bring the action and to seek appropriate relief from the court before the public
2.8 procurement contract is fully executed. This requirement does not apply to matters alleging
2.9 fraud or misrepresentation, or to matters alleging acts after contract execution that would
2.10 have been improper or illegal before the contract was executed.

2.11 (b) A party bringing an action after the procurement contract is fully executed must
2.12 demonstrate that it acted diligently in seeking access to information the party reasonably
2.13 deemed necessary to review prior to bringing the action.

2.14 (c) Without limiting the generality of paragraph (b), if data governed by and considered
2.15 classified as nonpublic data under section 13.591, subdivision 3 or 4, is made available to
2.16 the party bringing the action at least 15 days prior to full execution of the procurement
2.17 contract, the party bringing the action is deemed to have been afforded reasonable access
2.18 to the information and provided a reasonable opportunity to bring an action based upon that
2.19 information before the procurement contract at issue was fully executed.

2.20 Sec. 2. Minnesota Statutes 2018, section 471.345, subdivision 14, is amended to read:

2.21 Subd. 14. **Damage awards.** (a) In any action brought challenging the validity of a
2.22 municipal contract under this section, the court shall not award, as any part of its judgment,
2.23 damages; or ~~attorney's~~ attorney fees, but may award an unsuccessful bidder the costs of
2.24 preparing an unsuccessful bid.

2.25 (b) Paragraph (a) applies to any action arising under or based upon the alleged violation
2.26 by a municipality of Minnesota statute, regulation, ordinance, law, or equitable doctrine
2.27 governing or regarding public procurement requirements, public procurement procedures,
2.28 or the award of any public contract by a municipality, regardless of whether the agreement
2.29 constitutes a contract under subdivision 2.