

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 558

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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
03/07/2019	658a	Comm report: To pass as amended and re-refer to Local Government

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, by adding a subdivision; proposing coding for new law

1.5 in Minnesota Statutes, 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.** (a) Original jurisdiction is granted to the district

1.10 court over any action seeking legal, equitable, or declaratory relief arising under or based

1.11 upon the alleged violation of any law governing public procurement requirements, public

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

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

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

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

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

1.17 of review to be applied by a district court; (2) alter the standard of review applied by an

1.18 appellate court; (3) affect section 471.345, subdivision 14; (4) affect the available remedies,

1.19 including, but not limited to, the availability or nonavailability of attorney fees awards and

1.20 bid preparation costs; or (5) affect the procedural or administrative steps, if any, set out by

1.21 statute, rule, or procurement procedure, that a party must comply with prior to initiating

1.22 any such action.

2.1 Subd. 2. **Timing for filing.** (a) A procurement process participant must file an action
2.2 prior to the date when the procurement contract at issue is fully executed unless:

2.3 (1) the party demonstrates that it acted diligently in seeking access to information the
2.4 party reasonably deemed necessary to review prior to bringing an action; and

2.5 (2) the procurement process participant has not been afforded (i) reasonable access to
2.6 information necessary to prepare the action for filing, or (ii) a reasonable opportunity to
2.7 bring the action and seek appropriate relief from the court before the public procurement
2.8 contract is fully executed. Reasonable access to necessary information and a reasonable
2.9 opportunity to seek relief includes receipt of data described under section 13.591, subdivision
2.10 3 or 4, at least 15 days prior to full execution of the procurement contract.

2.11 (b) This subdivision does not apply to matters alleging: (1) fraud or misrepresentation,
2.12 or (2) acts following contract execution that would have been improper or illegal prior to
2.13 contract execution.

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

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

2.19 (b) Paragraph (a) applies to any action arising under or based upon the alleged violation
2.20 by a municipality of any law, regulation, ordinance, or equitable doctrine governing or
2.21 regarding public procurement requirements, public procurement procedures, or the award
2.22 of any public contract by a municipality, regardless of whether the agreement constitutes a
2.23 contract under subdivision 2.

2.24 Sec. 3. Minnesota Statutes 2018, section 471.345, is amended by adding a subdivision to
2.25 read:

2.26 Subd. 21. **Original jurisdiction; timing for filing.** (a) Original jurisdiction is granted
2.27 to the district court over any action seeking legal, equitable, or declaratory relief arising
2.28 under or based upon the alleged violation of any law or ordinance governing public
2.29 procurement requirements, public procurement procedures, or the award of any public
2.30 contract.

3.1 (b) The grant of original jurisdiction under paragraph (a) applies regardless of whether
3.2 a public entity involved or implicated in the action is alleged to have acted, or may be held
3.3 to have acted, in a judicial or quasi-judicial capacity.

3.4 (c) The grant of original jurisdiction under paragraph (a) does not: (1) alter the standard
3.5 of review to be applied by a district court; (2) alter the standard of review applied by an
3.6 appellate court; (3) affect section 471.345, subdivision 14; (4) affect the available remedies,
3.7 including, but not limited to, the availability or nonavailability of attorney fees awards and
3.8 bid preparation costs; or (5) affect the procedural or administrative steps, if any, set out by
3.9 statute, rule, or procurement procedure, that a party must comply with prior to initiating
3.10 any such action.

3.11 (d) A procurement process participant must file an action prior to the date when the
3.12 procurement contract at issue is fully executed unless:

3.13 (1) the party demonstrates that it acted diligently in seeking access to information the
3.14 party reasonably deemed necessary to review prior to bringing an action; and

3.15 (2) the procurement process participant has not been afforded (i) reasonable access to
3.16 information necessary to prepare the action for filing, or (ii) a reasonable opportunity to
3.17 bring the action and seek appropriate relief from the court before the public procurement
3.18 contract is fully executed. Reasonable access to necessary information and a reasonable
3.19 opportunity to seek relief includes receipt of data described under section 13.591, subdivision
3.20 3 or 4, at least 15 days prior to full execution of the procurement contract.

3.21 (e) Paragraph (d) does not apply to matters alleging: (1) fraud or misrepresentation, or
3.22 (2) acts following contract execution that would have been improper or illegal prior to
3.23 contract execution.

3.24 **Sec. 4. EFFECTIVE DATE.**

3.25 Sections 1 to 3 are effective the day following final enactment and apply to any actions
3.26 filed with the district court on or after that date.