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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 548

February 1, 2007

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The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

March 21, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to state government; requiring state agencies to consider former
1.3 employees before contracting out previously eliminated jobs; amending
1.4 Minnesota Statutes 2006, section 16C.08, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2006, section 16C.08, subdivision 2, is amended to read:

1.7 Subd. 2. **Duties of contracting agency.** (a) Before an agency may seek approval of
1.8 a professional or technical services contract valued in excess of \$5,000, it must provide
1.9 the following:

1.10 (1) a description of how the proposed contract or amendment is necessary and
1.11 reasonable to advance the statutory mission of the agency;

1.12 (2) a description of the agency's plan to notify firms or individuals who may be
1.13 available to perform the services called for in the solicitation; and

1.14 (3) a description of the performance measures or other tools that will be used to
1.15 monitor and evaluate contract performance.

1.16 (b) In addition to paragraph (a), the agency must certify that:

1.17 (1) no current state employee is able and available to perform the services called
1.18 for by the contract;

1.19 (2) the normal competitive bidding mechanisms will not provide for adequate
1.20 performance of the services;

1.21 (3) reasonable efforts will be made to publicize the availability of the contract to
1.22 the public;

1.23 (4) the agency will develop and implement a written plan providing for the
1.24 assignment of specific agency personnel to manage the contract, including a monitoring

2.1 and liaison function, the periodic review of interim reports or other indications of past
2.2 performance, and the ultimate utilization of the final product of the services;

2.3 (5) the agency will not allow the contractor to begin work before the contract is fully
2.4 executed unless an exception under section 16C.05, subdivision 2a, has been granted by
2.5 the commissioner and funds are fully encumbered;

2.6 (6) the contract will not establish an employment relationship between the state or
2.7 the agency and any persons performing under the contract; ~~and~~

2.8 (7) in the event the results of the contract work will be carried out or continued by
2.9 state employees upon completion of the contract, the contractor is required to include
2.10 state employees in development and training, to the extent necessary to ensure that after
2.11 completion of the contract, state employees can perform any ongoing work related to
2.12 the same function; and

2.13 (8) the agency will not contract out its previously eliminated jobs for four years
2.14 without first considering the same former employees who are on the seniority unit layoff
2.15 list who meet the minimum qualifications determined by the agency.

2.16 (c) A contract establishes an employment relationship for purposes of paragraph (b),
2.17 clause (6), if, under federal laws governing the distinction between an employee and an
2.18 independent contractor, a person would be considered an employee.