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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE NO. **3586**

March 9, 2010

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The bill was read for the first time and referred to the Transportation and Transit Policy and Oversight Division

1.1 A bill for an act
1.2 relating to transportation; modifying and adding provisions related to highway
1.3 construction contracting and disadvantaged business enterprises; amending
1.4 Minnesota Statutes 2008, sections 161.32, by adding subdivisions; 174.03,
1.5 subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 174.

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

1.7 Section 1. Minnesota Statutes 2008, section 161.32, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 8. **Bid-letting schedule.** The commissioner shall publish on the department's
1.10 Web site a bid-letting schedule of anticipated trunk highway construction, reconstruction,
1.11 and maintenance projects for letting in the ensuing 12 months. At a minimum, the
1.12 schedule must include, for each project listed:

1.13 (1) the anticipated letting date;

1.14 (2) summary information on the project, including but not limited to its project
1.15 number, general location, trunk highway route number, and primary type of work;

1.16 (3) any estimate of funds expected to be expended on the project; and

1.17 (4) a disadvantaged business enterprise participation goal.

1.18 Sec. 2. Minnesota Statutes 2008, section 161.32, is amended by adding a subdivision
1.19 to read:

1.20 Subd. 9. **Certificate of compliance.** The commissioner shall only accept bids
1.21 under this section in which the bidder has been issued a valid certificate of compliance as
1.22 provided under section 363A.36.

2.1 Sec. 3. Minnesota Statutes 2008, section 161.32, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 10. **Disadvantaged business enterprise.** The commissioner shall include in
2.4 each contract that is funded at least in part by federal funds:

2.5 (1) establishment of a disadvantaged business enterprise participation goal for the
2.6 project; and

2.7 (2) a sanction for each contractor who does not meet the established goal or
2.8 demonstrate good faith effort to meet the goal.

2.9 Sec. 4. Minnesota Statutes 2008, section 174.03, subdivision 11, is amended to read:

2.10 Subd. 11. **Disadvantaged business enterprise program; report.** ~~(a) The~~
2.11 ~~commissioner shall include in each contract that is funded at least in part by federal funds,~~
2.12 ~~a sanction for each contractor who does not meet the established project disadvantaged~~
2.13 ~~business enterprise goal or demonstrate good faith effort to meet the goal.~~

2.14 ~~(b)~~ The commissioner of transportation shall report by February 1 of each
2.15 odd-numbered year to the house of representatives and senate committees having
2.16 jurisdiction over transportation policy and finance concerning the commissioner's
2.17 disadvantaged business enterprise program. The report must, with respect to each of
2.18 the two previous calendar years:

2.19 (1) state the department's annual overall goal, compared with the percentage
2.20 attained, and identify the dollar amounts used in the calculations;

2.21 (2) explain the methodology, applicable facts, and public participation used to
2.22 establish the overall goal;

2.23 (3) describe good faith efforts to meet the goal, if the goal was not attained;

2.24 (4) describe actions to address overconcentration of disadvantaged business
2.25 enterprises in certain types of work;

2.26 (5) state the number of contracts that included disadvantaged business enterprise
2.27 goals, the number of contractors that met established disadvantaged business enterprise
2.28 goals, and sanctions imposed for lack of good faith effort; and

2.29 (6) describe contracts with no disadvantaged business enterprise goals, and, of
2.30 those, state number of contracts and amount of each contract with targeted groups under
2.31 section 16C.16.

2.32 Sec. 5. **[174.08] DISADVANTAGED BUSINESS ENTERPRISE.**

3.1 Subdivision 1. **Contractor workforce plan.** (a) A contractor shall, for each
3.2 contracted trunk highway project that is funded at least in part by federal funds, submit to
3.3 the commissioner a workforce plan that:

3.4 (1) identifies contractor strategies in meeting the disadvantaged business enterprise
3.5 participation goal for the project; and

3.6 (2) provides a projection of employment by the contractor of women and minorities,
3.7 including projected hours of work for each group.

3.8 (b) The commissioner shall establish a deadline for plan submission under this
3.9 subdivision in conjunction with contract execution or preconstruction planning.

3.10 Subd. 2. **Compliance review.** By January 1, 2011, the commissioner shall establish
3.11 a compliance review process for in-depth monitoring and enforcement of contractor
3.12 compliance with good faith efforts to meet disadvantaged business enterprise participation
3.13 goals. At a minimum, the process must include criteria or methods for determining
3.14 noncompliance, and a system and timeline for referral of noncompliance cases to the
3.15 commissioner of human rights.

3.16 Subd. 3. **Public information.** (a) The commissioner shall publish on the
3.17 department's Web site:

3.18 (1) employment and earnings data which must include but are not limited to (i) total
3.19 hours worked by, and wages paid to, persons employed by a disadvantaged business
3.20 enterprise under contracts for trunk highway projects, with breakdowns by trade level,
3.21 race, and gender; and (ii) total hours worked by, and wages paid to, all persons under
3.22 contracts for trunk highway projects;

3.23 (2) a description of the contractor compliance review process as required under
3.24 subdivision 2;

3.25 (3) a summary of contractor compliance review findings, which must include but is
3.26 not limited to:

3.27 (i) identification of each contractor and project for which the commissioner has
3.28 undertaken a compliance review;

3.29 (ii) identification of each contractor and project that fails to make good faith efforts
3.30 or to meet the disadvantaged business enterprise participation goal;

3.31 (iii) identification of each contractor that is sanctioned;

3.32 (iv) the amount or nature of the sanction under item (iii); and

3.33 (v) identification of the number of compliance reviews performed and the number of
3.34 contracts for which no review was performed;

4.1 (4) a copy of any reports related to disadvantaged business enterprise requirements
4.2 that are submitted to the United States Department of Transportation, over at least the
4.3 previous five fiscal years; and

4.4 (5) a copy of the legislative report submitted under section 174.03, subdivision 11.

4.5 (b) Except as otherwise provided, the commissioner shall update the information
4.6 required to be published under paragraph (a) on at least a monthly basis.

4.7 **Sec. 6. REVISOR'S INSTRUCTION.**

4.8 The revisor of statutes shall recodify Minnesota Statutes, section 174.03, subdivision
4.9 11, as Minnesota Statutes, section 174.08, subdivision 4. The revisor shall correct any
4.10 cross-references to that provision made necessary by this recodification.

4.11 **Sec. 7. EFFECTIVE DATE.**

4.12 This act is effective the day following final enactment.