

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 300

01/24/2019 Authored by Pinto and Scott
The bill was read for the first time and referred to the Committee on Government Operations
02/25/2019 Adoption of Report: Re-referred to the Judiciary Finance and Civil Law Division
03/21/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

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.